Government of Bombay
Legal Department

The Bombay Code

Volume II

Containing

The Acts passed by the Bombay Legislative Council from 1922 to 1936 and by the Bombay Legislature from 1937 to 1949; the Regulations made by the Governor of Bombay under sub-section (*2*) of section 92 of the Government of India Act, 1935; and a Chronological Table of Acts with an Index and a General Index.

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PART V

Acts passed by the Bombay Legislature and Regulations made by the Governor of Bombay under sub-section (*2*) of section 92 of the Government of India Act, 1935

Pages 2003-2008 have been omitted as the Bombay Cotton Control Act, 1935 (Bom. 35 of 1935), has been repealed by section 15 of the Bombay Cotton Control Act, 1942 (Bom. 30 of 1942).

PART IV

Acts Passed by the Bombay Legislative Council

CHRONOLOGICAL TABLE.

PART IV.—ACTS PASSED BY THE BOMBAY LEGISLATIVE COUNCIL.

(1922—1936)

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page.
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1922	III	The Bombay Cotton Contracts Control (War Provisions) Repeal Act, 1922.	Adapted and modified by the Adaptation of Indian Laws Order in Council.		1423
1922	IV	The Mahul Creek (Extinguishment of Rights) Act, 1922.	Amended by Bom. Act 16 of 1927.	10th January 1928 ..	1427
1922	XI	The Identification of Prisoners (Bombay Amendment) Act, 1922.	Amended by Bom. 17 of 1945	15th August 1945 ...	1431
1923	I	The Bombay Entertainments Duty Act, 1923.	Amended by Bom. Act 6 of 1925 ; Amended by Bom. Act, 13 of 1931 ; Amended by Bom. Act 2 of 1932, read with Bom. Act 23 of 1948 .. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 13 of 1943.	26th November 1925. 3rd December 1931. 30th March 1932. 30th March 1948. .. 28th December 1943	1435

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
1	2	3	4	5	6
1923	1	The Bombay Entertainments Duty Act, 1923—*contd.*	Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 21 of 1948.	29th March 1948.	
			Amended by Bom. Act 37 of 1948.	23rd April 1948.	
1923	VI	The Bombay Local Boards Act, 1923.	Amended by Bom. Act 2 of 1925;	3rd October 1925 ...	1443
			Amended by Bom. Act 13 of 1925;	27th January 1926.	
			Amended by Bom. Act 7 of 1926;	21st August 1926.	
			Amended by Bom. Act 10 of 1927;	3rd November 1927.	
			Amended by Bom. Act 5 of 1928;	26th September 1928.	
			Amended by Bom. Act 4 of 1930;	28th April 1930.	
			Amended by Bom. Act 25 of 1930;	17th September 1930.	
			Amended by Bom. Act 10 of 1931;	17th September 1931.	
			Amended by Bom. Act 22 of 1931;	3rd December 1931.	
			Amended by Bom. Act 23 of 1931;	3rd December 1931.	
			Amended by Bom. Act 5 of 1932;	28th October 1932.	
			Amended by Bom. Act 15 of 1932;	1st December 1932.	
			Amended by Bom. Act 16 of 1933;	14th October 1933.	
			Amended by Bom. Act 8 of 1934;	8th October 1934.	
			Amended by Bom. Act 14 of 1934;	10th November 1934.	
			Amended by Bom. Act 6 of 1935;	18th April 1934.	
			Amended by Bom. Act 13 of 1935;	12th September 1935.	
			Amended by Bom. Act 16 of 1935;	17th September 1935.	
			Amended by Bom. Act 30 of 1935;	20th January 1936.	
			Amended by Bom. Act 34 of 1935;	6th February 1936.	
			Amended by Bom. Act 14 of 1936;	26th November 1936.	
			Amended by Bom. Act 18 of 1936;	3rd December 1936.	
			Amended by Bom. Act 24 of 1936;	22nd January 1937.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette*.	Page.
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1923	VI	The Bombay Local Boards Act, 1923 —*contd.*	Amended by Bom. Act 1 of 1938.	28th January 1938.	
			Amended by Bom. Act 23 of 1938.	22nd December 1938.	
			Amended by Bom. Act 23 of 1939.	2nd December 1939.	
			Amended by Bom. Act 3 of 1940.	28th March 1940.	
			Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 21 of 1945.	10th January 1945.	
			Amended by Bom. Act 41 of 1947.	8th December 1947.	
			Amended by Bom. Act 19 of 1948.	24th March 1948.	
			Amended by Bom. Act 10 of 1949.	19th April 1949.	
1923	XI	The Bombay Prevention of Prostitution Act, 1923.	Amended by Bom. Act 9 of 1926.	28th September 1926.	1513
			Amended by Bom. Act 9 of 1927.	1st November 1927.	
			Amended by Bom. Act 12 of 1930.	3rd September 1930.	
			Amended by Bom. Act 20 of 1931.	21st November 1931.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 7 of 1943.	6th May 1943.	
			Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 26 of 1948.	30th March 1948.	
1924	IX	The Cattle-trespass (Amendment) Act, 1924.	...	...	1523

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1925	V	The Bombay Prevention of Adulteration Act, 1925.	Amended by Bom. Act 23 of 1935. Adapted and modified by the Adaptation of Indian Laws Order in Council.	8th October 1935 ..	1525
1925	VI	The Bombay Betting Tax Act, 1925.	Amended by Bom. Act 4 of 1931. Amended by Bom. Act 2 of 1932, Read with Bom. Act 23 of 1948. s. 14. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 11 of 1943.	23rd May 1931 .. 30th March 1932 .. 30th March 1948 .. 16th December 1943.	1537
1925	VII	The Bombay Co-operative Societies Act, 1925.	Amended by Bom. Act 8 of 1933. Amended by Bom. Act 22 of 1935. Amended by Bom. Act 8 of 1936. Amended by Bom. Act 17 of 1936. Amended by Bom. Act 24 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 29 of 1942. Amended by Bom. Act 16 of 1943. Amended by Bom. Act 28 of 1948. Amended by Bom. Act 14 of 1949.	19th September 1933. 5th October 1935. 7th May 1936. 30th November 1936. 22nd January 1937. 11th February 1943. 30th December 1943. 1st April 1948. 5th May 1949.	1543
1925	VIII	The Bombay Securities Contracts Control Act, 1925.	Amended by Bom. Act 9 of 1927. Adapted and modified by the Adaptation of Indian Laws Order in Council.	1st November 1927.	1581

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1925	XVIII	The Bombay Municipal Boroughs Act, 1925.	Amended by Bom. Act 10 of 1926.	13th October 1926	1585
			Amended by Bom. Act 1 of 1927.	24th March 1927.	
			Amended by Bom. Act 12 of 1927.	14th December 1927.	
			Amended by Bom. Act 3 of 1930.	26th April 1930.	
			Amended by Bom. Act 4 of 1930.	28th April 1930.	
			Amended by Bom. Act 9 of 1930.	22nd May 1930.	
			Amended by Bom. Act 25 of 1930.	17th September 1930.	
			Amended by Bom. Act 12 of 1931.	26th September 1931.	
			Amended by Bom. Act 23 of 1931.	3rd December 1931.	
			Amended by Bom. Act 7 of 1932.	10th November 1932.	
			Amended by Bom. Act 15 of 1932.	1st December 1932.	
			Amended by Bom. Act 17 of 1933.	14th October 1933.	
			Amended by Bom. Act 14 of 1934.	10th November 1934.	
			Amended by Bom. Act 19 of 1935.	25th September 1935.	
			Amended by Bom. Act 14 of 1936.	26th November 1936.	
			Amended by Bom. Act 15 of 1936.	27th November 1936.	
			Amended by Bom. Act 24 of 1936.	22nd January 1937.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 9 of 1938.	12th May 1938.	
			Amended by Bom. Act 8 of 1939.	15th May 1939.	
			Amended by Bom. Act 20 of 1944.	30th December 1944.	
			Amended by Bom. Act 17 of 1945.	15th August 1945.	
			Amended by Bom. Act 22 of 1945.	17th January 1946.	
			Amended by Bom. Act 7 of 1946.	28th March 1946.	
			Amended by Bom. Act 1 of 1947.	18th March 1947.	
			Amended by Bom. Act 2 of 1947.	18th March 1947.	
			Amended by Bom. Act 41 of 1947.	8th December 1947.	
			Adapted by the India (Adaptation of Existing Indian Laws) Order, 1947.		

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
1	2	3	4	5	6.
1926	XI	The Invalidation of Hindu Ceremonial Emoluments Act, 1926.	...	...	1709
1928	III	The Bombay Non-Agriculturists' Loans Act, 1928.	Amended by Bom. Act 11 of 1928. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 6 of 1949.	11th January 1929.. 11th April 1949.	1713
1928	IV	The Bombay University Act, 1928.	Amended by Bom. Act 12 of 1928. Amended by Bom. Act 13 of 1929. Amended by Bom. Act 15 of 1930. Amended by Bom. Act 20 of 1930. Amended by Bom. Act 10 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 11 of 1944. Amended by Bom. Act 49 of 1948.	11th January 1929.. 27th September 1929. 4th September 1930. 15th September 1930. 12th November 1936. 5th August 1944. 7th October 1948.	1717
1929	V	The Indian Registration (Bombay Amendment) Act, 1929.	Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.	...	1741
1929	VII	The Bombay Maternity Benefit Act, 1929.	Amended by Bom. Act 5 of 1934. Adapted and modified by the Adaptation of Indian Laws Order in Council.	9th May 1934 ..	1745
1929	XVIII	The Bombay Borstal Schools Act, 1929.	Amended by Bom. Act 10 of 1932. Amended by Bom. Act 3 of 1934. Amended by Bom. Act 18 of 1935. Amended by Bom. Act 2 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. Act 39 of 1948.	10th November 1932. 27th April 1934. 23rd September 1935. 12th March 1936. 1st May 1948.	1751

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1930	VI	The Provincial Small Cause Courts (Bombay Amendment) Act, 1930.			1763
1930	XVII	The Indian Registration (Bombay Amendment) Act, 1930.	Adapted and modified by the Adaptation of Indian Laws Order in Council.		1767
1930	XXV	The Bombay Local Fund Audit Act, 1930.	Adapted and modified by the Adaptation of Indian Laws Order in Council; Amended by Bom. Act 12 of 1949.	22nd April 1949.	1771
1931	V	The Cattle-trespass (Bombay Amendment) Act, 1931.	.....	...	1779
1932	I	The Tobacco Duty (Town of Bombay) Amendment Act, 1932.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	...	1781
1932	II	The Bombay Finance Act, 1932.	Amended by Bom. Act 6 of 1932.	5th November 1932...	1783
			Amended by Bom. Act 1 of 1933.	23rd March 1933. ..	
			Amended by Bom. Act 1 of 1934.	31st March 1934. ..	
			Amended by Bom. Act 1 of 1935.	26th March 1935. ..	
			Amended by Bom. Act 3 of 1936.	12th March 1936. ..	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 7 of 1938.	26th March 1938. ..	
			Amended by Bom. Act 4 of 1939.	30th March 1939. ..	
			Amended by Bom. Act 17 of 1939.	11th September 1939.	
			Amended by Bom. Act 1 of 1940.	20th March 1940. ..	
			Amended by Bom. Act 4 of 1941.	27th March 1941. ..	

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
1	2	3	4	5	6
1932	II	The Bombay Finance Act, 1932—*contd.*	Amended by Bom. Act 6 of 1942.	28th March 1942.	
			Amended by Bom. Act 3 of 1943.	30th March 1943.	
			Amended by Bom. Act 4 of 1944.	30th March 1944.	
			Amended by Bom. Act 4 of 1945.	29th March 1945.	
			Amended by Bom. Act 9 of 1946.	29th March 1946.	
			Amended by Bom. Act 8 of 1947.	31st March 1947.	
			Amended by Bom. Act 23 of 1948.	30th March 1948.	
			Amended by Bom. Act 2 of 1949.	31st March 1949.	
1932	IV	The Bombay Cotton Contracts Act, 1932.	Adapted and modified by the Adaptation of Indian Laws Order in Council.		1823
			Repealed in part by Bom. Act 17 of 1938.	27th October 1938.	
1932	IX	The Provincial Small Cause Courts (Bombay Amendment) Act, 1932.	.....	.....	1831
1932	XV	The Bombay Weights and Measures Act, 1932.	Amended by Bom. Act 9 of 1935.	20th May 1935 ...	1833
			Amended by Bom. Act 33 of 1935.	6th February 1936.	
			Amended by Bom. Act 22 of 1936.	21st December 1936.	
			Amended by Bom. Act 5 of 1937.		
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 1 of 1939.	15th March 1939.	
			Amended by Bom. Act 15 of 1947.	21st April 1947.	
			Amended by Bom. Act 56 of 1948.	22nd November 1948.	

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
1	2	3	4	5	6
1933	II	The Bombay (District) Tobacco Act, 1933.	Amended by Bom. Act 2 of 1935.	29th March 1935.	1853
			Amended by Bom. Act 26 of 1935.	21st November 1935.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council.		
			Amended by Bom. Act 6 of 1938.	24th March 1938.	
1933	V	The Presidency Small Cause Courts (Bombay Amendment) Act, 1933.	....	....	1863
1933	VI	The Bombay Village Panchayats Act, 1933.	Amended by Bom. Act 34 of 1935;	6th February 1936 ..	1865
			Amended by Bom. Act 24 of 1936;	22nd January 1936.	
			Adapted and modified by the Adaptation of Indian Laws Order in Council;		
			Amended by Bom. 18 of 1939;	18th September 1939.	
			Amended by Bom. 2 of 1945;	15th March 1945.	
			Amended by Bom. 24 of 1946;	9th October 1946.	
			Amended by Bom. 60 of 1947;	28th January 1948.	
			Amended by Bom. 4 of 1949.	7th April 1949.	

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
1	2	3	4	5	6
1933	XIII	The City of Bombay Municipal (Amendment) Act, 1933.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1915
1933	XVIII	The Indian Registration (Bombay Amendment) Act, 1933.	.....	.....	1919
1933	XX	The Presidency-towns Insolvency (Bombay Amendment) Act, 1933.	Amended by Bom. 3 of 1935. Adapted and modified by the Adaptation of Indian Laws Order in Council. Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council. Amended by Bom. 17 of 1945.	10th April 1935 ... 15th August 1945 ...	1921
1933	XXII	The Bombay Live stock Improvement Act, 1933.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1927
1934	IX	The Bombay Trade Disputes Conciliation Act, 1934.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1935
1934	X	The Bombay Devadasis Protection Act, 1934.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1945
1935	VII	The Bombay Nurses, Midwives and Health Visitors Registration Act, 1935.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1949

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
1	2	3	4	5	6
1935	XVIII	The Musalman Wakf (Bombay Amendment) Act, 1935.	Adapted and modified by the Adaptation of Indian Laws Order in Council.	.....	1959
1935	XXI	The Identification of Prisoners (Bombay Second Amendment) Act, 1935.	.....	.....	1971
1935	XXV	The Bombay Public Trusts Registration Act, 1935.	Amended by Bom. Act 24 of 1936; Adapted and modified by the Adaptation of Indian Laws Order in Council.	22nd January 1937 ..	1975
			Amended by Bom. 10 of 1944.	15th July 1944.	
			Amended by Bom. 17 of 1945.	15th August 1945.	
			Amended by Bom. 65 of 1948.	15th December 1948.	
1935	XXIX	The Bombay Criminal Procedure (Elections Offences) Amendment Act, 1935.	.....	.....	1987
1935	XXXIV	The Bombay Motor Vehicles Tax Act, 1935.	Amended by Bom. Act 24 of 1936. Adapted and modified by the Adaptation of Indian Laws Order in Council.	22nd January 1937.	1989
			Amended by Bom. 13 of 1939.	15th June 1939.	
			Amended by Bom. 3 of 1940.	28th March 1940.	
			Amended by Bom. 9 of 1942.	10th April 1942.	
			Amended by Bom. 46 of 1947.	15th December 1947.	
			Amended by Bom. 5 of 1949.	11th April 1949.	
1935	XXXV	The Bombay Cotton Control Act, 1935.	.....	.....	Not printed.
1936	IV	The Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council.		2009

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
1	2	3	4	5	6
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1936	XIX	The Bombay Famine Relief Fund Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. 13 of 1939. Amended by Bom. 9 of 1940.	..... 15th June 1939. 27th August 1940.	2019
1936	XX	The Bombay Opium Smoking Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. 17 of 1945.	..... 15th August 1945.	2023
1936	XXIII	The Parsi Public Trusts Registration Act, 1936.	Adapted and modified by the Adaptation of Indian Laws Order in Council. Amended by Bom. 10 of 1944. Amended by Bom. 17 of 1945.	..... 15th July 1944. 15th August 1945.	2033

PART V—ACTS PASSED BY THE BOMBAY LEGISLATURE AND THE REGULATIONS MADE BY THE GOVERNOR OF BOMBAY UNDER SUB-SECTION (2) OF SECTION 92 OF THE GOVERNMENT OF INDIA ACT, 1935.

(1937—1949)

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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
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1937	IV	The Bombay Ministers' Salaries Act, 1937.	Amended by Bom. 13 of 1946.	15th June 1946 ..	2055
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1938	XV	The Indian Lunacy (Bombay Amendment) Act, 1938.	....	....	2067
1938	XVIII	The Land Acquisition (Bombay Amendment) Act, 1938.	....	....	2069
1938	XIX	The Bombay Probation of Offenders Act, 1938.	Amended by Bom. Act 17 of 1945. Repealed in part by Bom. Act 38 of 1947. Amended by Bom. Act 23 of 1949.	15th August 1945 .. 28th November 1947 17th May 1949.	2071
1938	XX	The Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1938.	Amended by Bom. Act 33 of 1949.	1st July 1949 ..	2079
1938	XXII	The Bombay Forfeited Lands Restoration Act, 1938.			2083
1938	XXIV	The Indian Registration (Bombay Amendment) Act, 1938.			2089
1938	XXVI	The Bombay Medical Practitioners' Act, 1938.			2095

Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
1	2	3	4	5	6
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1939	X	The Bombay Lifts Act, 1939.	Amended by Bom. Act 17 of 1945.	15th August 1945 ..	2119
1939	XII	The Bombay Revenue Tribunal Act, 1939.	.....	.....	2125
1939	XIII	The Bombay Charged Expenditure Act, 1939.	Amended by Bom. Act 29 of 1949.	3rd June 1949 ..	2131
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1939	XV	The Presidency-towns Insolvency and the Provincial Insolvency (Bombay Amendment) Act, 1939.	.....	.....	2139
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1942	II	The Local Authorities Loans (Bombay Amendment) Act, 1942.	.....	.....	2163
1942	XXVIII	The Bombay Land Improvement Schemes Act, 1942.	Amended by Bom. 3 of 1944. Amended by Bom. 7 of 1945. Amended by Bom. 73 of 1948.	29th March 1944 .. 21st April 1945. .. 31st December 1948.	2165
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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page
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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1946	XXIII	The Ahmedabad and Surat Municipal Administration Validating Act, 1946.	....	.....	2307
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Year.	No.	Short title or subject.	Whether repealed or otherwise affected by legislation.	Date of publication of the Act in the *Official Gazette.*	Page.
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1947	XI	The Bombay Industrial Relations Act, 1946.	Amended by Bom. 43 of 1948. Amended by Bom. 74 of 1948.	18th May 1948 ... 31st December 1948.	2355
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THE BOMBAY COTTON CONTRACTS CONTROL (WAR PROVISIONS) REPEAL ACT, 1922.

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2. Repeal of Bom. I of 1919.
3. Provision for the settlement of certain contracts and disputes after repeal.
4. Disposal of property of Bombay Cotton Contracts Board.
5. Bom. I of 1919, section 5, not to apply in certain cases.

BOMBAY ACT No. III OF 1922.[1]

[THE BOMBAY COTTON CONTRACTS CONTROL (WAR PROVISIONS) REPEAL ACT, 1922.]

[*5th May 1922.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to repeal the Bombay Cotton Contracts Control (War Provisions) Act, 1919.

Bom. I of 1919. WHEREAS it is expedient to repeal the Bombay Cotton Contracts Control (War Provisions) Act, 1919; It is hereby enacted as follows :—

1. This Act may be called the Bombay Cotton Contracts Control (War Provisions) Repeal Act, 1922. Short title.

Bom. I of 1919. **2.** The Bombay Cotton Contracts Control (War Provisions) Act, 1919, hereinafter called "the said Act," is, with effect from 1st June 1922 and except to the extent mentioned in section 3, hereby repealed. Repeal of Bom. I of 1919.

3. The said Act and the rules and bye-laws made thereunder shall continue in force thereafter only for the purpose of settling contracts and disputes in relation thereto, for the purchase and sale of cotton to be delivered on or before 31st May 1922, and the Bombay Cotton Contracts Board shall deal with such contracts and disputes and the powers and functions of the Board in relation thereto shall as regards such contracts and disputes remain in full force and effect, provided that the application for the exercise of the powers and functions of the Board under its rules and bye-laws is made not later than 15th July 1922. Provision for the settlement of certain contracts and disputes after repeal.

4. On the settlement of the last such dispute, the property of the Bombay Cotton Contracts Board shall vest in the [2][Provincial Government] and the proceeds thereof shall, after the liabilities of the Board shall have been discharged, be applied by the [2][Provincial Government] for the benefit of the cotton trade of the City of Bombay. Disposal of property of Bombay Cotton Contracts Board.

5. Notwithstanding anything contained in section 5 of the said Act, no contract for the purchase or sale of cotton to be delivered after 31st May 1922, whether made before or after the passing of this Act, shall be void by reason of its contravening any rule or bye-law made by the Bombay Cotton Contracts Board. Bom. I of 1919, section 5, not to apply in certain cases.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Part V, page 7.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

THE MAHUL CREEK (EXTINGUISHMENT OF RIGHTS) ACT, 1922.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extinguishment of rights.
3. Compensation to be awarded for loss or damage caused by extinction of rights.

SCHEDULE.

BOMBAY ACT No. IV OF 1922.[1]

[THE MAHUL CREEK (EXTINGUISHMENT OF RIGHTS) ACT, 1922.]

[*20th May 1922.*]

Amended by Bom. 16 of 1927.

WHEREAS it is expedient to facilitate the laying by the Trustees of the Port of Bombay of a new oil pipe line to the oil pier at Trombay;

And whereas for the proper laying and protection of the said pipe line it is necessary to keep the drawbridge now maintained by the Port Trust Railway over the Mahul Creek permanently closed and thus to cut off from access to the sea a portion of the said creek;

And whereas it is therefore necessary to extinguish all [2]* * * rights of navigation in the said creek over and above the site of the said bridge;

And whereas the previous sanction of the Governor-General required by clauses (*e*) and (*f*) of sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. 5, c. 61.

1. This Act may be called the Mahul Creek (Extinguishment of Rights) Act, 1922. Short title.

2. From the first day of June 1922 all [2]* * * rights of navigation in that part of the Mahul Creek which lies over and above or to the north of the drawbridge now to be kept permanently closed by the Trustees of the Port of Bombay, and spanning the said creek at a point specified in the Schedule hereto, shall be extinguished. Extinguishment of rights.

3. (*1*) On the passing of this Act, the Collector of Bombay shall commence to take order for the award of compensation for any loss or damage caused to any person by the extinction of such rights, in the same manner, as nearly as may be, as if he had been directed under section 7 of the Land Acquisition Act, 1894, to take order for the acquisition of land. 1 of 1894. Compensation to be awarded for loss or damage caused by extinction of rights.

(*2*) Compensation shall be determined and awarded in accordance, as nearly as may be, with the provisions of the Land Acquisition Act, 1894, by the said Collector, or, if his award is not accepted, by the Court. 1 of 1894.

SCHEDULE.

(*See* section 2.)

The site of the drawbridge is about 600 feet, measured along the western edge of the Mahul Creek, to the north of the centre line of the Pakdi Creek, as shown on City Survey Sheet No. 587, and 900 feet measured along the western edge of the Mahul Creek to the south of the centre line of the Chandani Creek, as shown on City Survey Sheet No. 589. It is approximately 730 feet to the east of the old Tower situate near the Laxman Govind Salt Pan Works as shown on City Survey Sheet No. 587.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Part V, page 2.

[2] The words "tidal rights and" were repealed by Bom. 16 of 1927. This repeal shall be deemed to have been made and to have had effect from the date on which Bom. 4 of 1922 came into operation:

Provided that if a claim for compensation for loss of tidal rights has been preferred before the Collector of Bombay and the claim has not been adjudicated upon when this Act comes into force, the time during which the proceedings were pending before the Collector shall be excluded in calculating limitation for any suit that may be filed hereafter for damages for interference with such tidal rights. *See* Bom. 16 of 1927, s. 3.

THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 1922.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Amendment of section 2 of XXXIII of 1920.
3. Amendment of section 5 of XXXIII of 1920.
4. Amendment of section 7 of XXXIII of 1920.

BOMBAY ACT No. XI OF 1922.[1]

[THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 1922.]

[*14th December 1922.*]

*Amended by Bom. 17 of 1945.

An Act to amend the Identification of Prisoners Act, 1920.

XXXIII of 1920 WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to [2][the Greater Bombay] in manner hereinafter appearing;

AND WHEREAS the previous sanction of the Governor General required by clause (*f*) of sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6, Geo. 5, c. 61.

1. (*1*) This Act may be called the Identification of Prisoners (Bombay Amendment) Act, 1922. Short title and extent.

(*2*) It extends to [2][the Greater Bombay].

2. In clause (*b*) of section 2 of the Identification of Prisoners Act, 1920, hereinafter called "the said Act", after the figures "1898" the words and figures "or Chapter V of the City of Bombay Police Act, 1902" shall be inserted. Amendment of section 2 of XXXIII of 1920. Bom. IV of 1902.

3. In section 5 of the said Act Amendment of section 5 of XXXIII of 1920.

(*a*) after the figures "1898" the words and figures "or the City of Bombay Police Act, 1902" shall be inserted; and Bom. IV of 1902.

(*b*) to the first proviso, the words "or a Presidency Magistrate" shall be added.

4. In section 7 of the said Act, after the word "Officer" the words "or in the City of Bombay, the Commissioner of Police" shall be inserted. Amendment of section 7 of XXXIII of 1920.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Part V, page 96.

[2] These words were substituted for the original by Bom. 17 of 1945, s. 9, Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

* This Act has been repealed and re-enacted and the amendments made by s. 9, Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

THE BOMBAY ENTERTAINMENTS DUTY ACT, 1923.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and operation.
2. Definitions.
3. Duty on payments for admission to entertainments.
4. Method of levy.
5. Punishment for non-compliance with section 4.
6. Entertainments for charitable or educational purposes exempted : exemption by Provincial Government.
7. Power to make rules.
8. Power to enter place of entertainment for purposes of the Act.
9. Recoveries.
10. Delegation of powers by the Provincial Government.

BOMBAY ACT No. I OF 1923.[1]

[THE BOMBAY ENTERTAINMENTS DUTY ACT, 1923.]

[*13th January 1923.*]

Amended by Bom. 6 of 1925.
,, ,, ,, 13 of 1931.
,, ,, ,, 2 of 1932, read with Bom. 23 of 1948.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 13 of 1943.
,, ,, ,, 17 of 1945.†
,, ,, ,, 21 of 1948.
,, ,, ,, 37 of 1948.

An Act to impose a duty in respect of admission to entertainments in the Presidency of Bombay.

WHEREAS it is expedient to provide for the levy of a duty in respect of admission to theatres, cinemas, and other places of public entertainment in the Presidency of Bombay; It is hereby enacted as follows:—

Short title, extent and operation.

1. (*1*) This Act may be called the Bombay Entertainments Duty Act, 1923.

(*2*) It extends to the whole of the Bombay Presidency.

(*3*) It shall come into operation in the first instance only in [2][the Greater Bombay], the Ahmedabad municipal district and cantonment, the Surat municipal district, the Poona city and suburban municipal districts, the Poona cantonment, the Sholapur municipal district and the Karachi municipal district and cantonment; but the [3][Provincial Government] may by notification [4]in the [5][*Official Gazette*] direct that it shall come into operation in any other local area on such date as may be specified in such notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted for payment;

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1922, Part V, p. 177; for Report of Select Committee, see *ibid*, 1922, pp. 244–245; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1922, Vol. VII.

[2] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] This Act came into operation in the Kirkee Cantonment area on 1st April 1930 (*vide* Government Notification in the Revenue Department, No. 7304-E, dated the 28th January 1930, published in the *Bombay Government Gazette*, 1930, Part I, p. 187).

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

† This Act has been repealed and re-enacted and amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

[1](*b*) "payment for admission" includes –

(*i*) any payment made by a person who, having been admitted to one part of a place of entertainment, is subsequently admitted to another part thereof for admission to which a payment involving duty or more duty is required.

(*ii*) any payment for seats or other accommodation in a place of entertainment.

(*iii*) any payment for a programme of synopsis of an entertainment, and

(*iv*) any payment for any purpose whatsoever connected with an entertainment which a person is required to make as a condition of attending or continuing to attend the entertainment in addition to the payment if any for admission to the entertainment;

(*c*) "proprietor" in relation to any entertainment includes any person responsible for the management thereof; and

(*d*) "admission to an entertainment" includes admission to any place in which the entertainment is held.

Duty on payments for admission to entertainments.

3. [2][(*1*) There shall from the 1st day of April 1948 be levied and paid to the Government of Bombay on all payments for admission to any entertainment a duty (hereinafter referred to as "entertainments duty") at the following rate, namely :—

Where the payment, excluding the amount of duty, is made for admission to a race-course licensed under the Bombay Race-courses Licensing Act, 1912, 37½ per cent. of such payment, and in any other case, Bom. III of 1912

where the payment, excluding the amount of the duty—

(*i*) does not exceed four annas ..	one anna.
(*ii*) exceeds four annas but does not exceed eight annas.	two and half annas.
(*iii*) exceeds eight annas but does not exceed one rupee.	five annas.
(*iv*) exceeds one rupee but does not exceed two rupees.	ten annas.
(*v*) exceeds two rupees but does not exceed four rupees.	one rupee and four annas.
(*vi*) exceeds four rupees but does not exceed five rupees.	two rupees.
(*vii*) exceeds five rupees but does not exceed ten rupees.	two rupees and eight annas.
(*viii*) exceeds ten rupees, for every five rupees or part thereof in excess of the first ten rupees, in addition to the payment on the first ten rupees.	two rupees and eight annas.]

(*2*) Where the payment for admission to an entertainment is made by means of a lump sum paid as a subscription or contribution to any society, or for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, or for any privilege, right,

[1] This clause was substituted for the original clause by Bom. 13 of 1931, s. 2.

[2] This sub-section was substituted for the original by Bom. 2 of 1932, s. 41, as inserted by Bom. 23 of 1948, s. 14, read with s. 9 of Bom. 2 of 1949.

facility or thing combined with the right of admission to any entertainment or involving such right of admission without further payment or at a reduced charge, the entertainments duty shall be paid on the amount of the lump sum;

but where the [1][Provincial Government] is of opinion that the payment of a lump sum or any payment for a ticket represents payment for other privileges, rights or purposes besides the admission to an entertainment, or covers admission to an entertainment during any period for which the duty has not been in operation, the duty shall be charged on such an amount as appears to the [1][Provincial Government] to represent the right of admission to entertainments in respect of which the entertainments duty is payable.

Method of levy.

4. (*1*) Save as otherwise provided by this Act no person shall be admitted for payment to any entertainment where the payment is subject to entertainments duty except with a ticket stamped with an impressed, embossed, engraved or adhesive stamp (not before used) issued by the [1][Provincial Government] for the purposes of revenue and denoting that the proper entertainments duty has been paid.

(*2*) The [1][Provincial Government] may, on the application of a proprietor of any entertainment in respect of which the entertainments duty is payable under section 3, allow the proprietor on such conditions as the [1][Provincial Government] may prescribe to pay the amount of the duty due—

(*a*) by a consolidated payment of a percentage, to be fixed by the [1][Provincial Government], of the gross sum received by the proprietor on account of payments for admission to the entertainment and on account of the duty;

(*b*) in accordance with returns of the payments for admission to the entertainment and on account of the duty;

(*c*) in accordance with the results recorded by any mechanical contrivance which automatically registers the number of persons admitted.

(*3*) The provisions of sub-section (*1*) of this section and of section 5 shall not apply to any entertainment in respect of which the duty due is payable in accordance with the provisions of sub-section (*2*).

Punishment for non-compliance with section 4.

5. If any person is admitted for payment to any place of entertainment and the provisions of section 4 are not complied with, the proprietor of the entertainment to which such person is admitted shall, on conviction before a Magistrate, be liable in respect of each offence to a fine which may extend to rupees five hundred and shall be liable to pay any duty which should have been paid.

Entertainments for charitable or educational purposes exempted: exemption by Provincial Government.

6. (*1*) Entertainments duty shall not be levied on payments for the admission to any entertainment where, in the case of [2][the Greater Bombay] the Commissioner of Police, or elsewhere, the District Magistrate, is satisfied that—

(*a*) the whole of the takings thereof are devoted to philanthropic or charitable purposes without any charge on the takings for any expenses of the entertainment; or

(*b*) the entertainment is of a wholly educational character; or

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

(*c*) the entertainment is provided partly for educational or partly for scientific purposes by a society, institution or committee not conducted or established for profit.

(*2*) Where the Commissioner of Police or the District Magistrate, as the case may be, is satisfied that the whole of the net proceeds of an entertainment are devoted to philanthropic or charitable purposes, and that the whole of the expenses of the entertainment do not exceed twenty per cent. of the receipts, the amount of the entertainments duty paid in respect of the entertainment shall be refunded to the proprietor.

(*3*) The [1][Provincial Government] may, by general or special order, exempt any entertainment or class of entertainments from liability to entertainments duty.

Power to make rules.

7. (*1*) The [1][Provincial Government] may make rules for securing the payment of the entertainments duty and generally for carrying into effect the provisions of this Act, and in particular—

(*a*) for the supply and use of stamps or stamped tickets, or for the stamping of tickets sent to be stamped; and for securing the defacement of stamps when used;

(*b*) for the use of tickets covering the admission of more than one person and the calculation of the duty thereon; and for the payment of the duty on the transfer from one part of a place of entertainment to another and on payments for seats or other accommodation;

(*c*) for controlling the use of mechanical contrivances (including the prevention of the use of the same mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of mechanical contrivances;

[2](*cc*) for prohibiting the issue of complimentary or free tickets or passes for admission to an entertainment, by whatever name called, exceeding such number as may be specified;

(*d*) for the checking of admissions, the keeping of accounts and the furnishing of returns by the proprietors of entertainments in respect of which the duty due is payable in accordance with the provisions of section 4, sub-section (*2*);

(*e*) for the renewal of damaged or spoiled stamps and for the procedure to be followed on applications for refund;

(*f*) for the keeping of accounts of all stamps used under this Act;

(*g*) for the presentation and disposal of applications for exemption from payment of the entertainments duty or for the refund thereof; and

[3][(*h*) for the exemption from entertainments duty or from any part or class thereof of soldiers, sailors or other defence forces in uniform of any nationality.]

(*2*) If any person acts in contravention of, or fails to comply with, any such rules, he shall, on conviction before a Magistrate, be liable in respect of each offence to a fine not exceeding five hundred rupees.

(*3*) Such rules shall be made after previous publication.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] This clause was inserted by Bom. 37 of 1948, s. 2.

[3] This clause was substituted for the original by Bom. 21 of 1948, s. 2.

8. The Commissioner of Police in [1][the Greater Bombay], or the District Magistrate elsewhere, or any officer other than a Police officer below the rank of Head Constable duly authorised by them in this behalf, may enter any place of entertainment while the entertainment is proceeding, and any place ordinarily used as a place of entertainment, at any reasonable time, with a view to seeing whether the provisions of this Act or the rules made thereunder are being complied with. **Power to enter place of entertainment for purposes of the Act.**

9. Any sum due on account of entertainments duty shall be recoverable as an arrear of land revenue. **Recoveries.**

10. [2]Any of the powers and duties conferred or imposed upon the [3][Provincial Government] by this Act may be exercised or performed, subject to such conditions as the [3][Provincial Government] may prescribe, by any person whom the [3][Provincial Government] may by general or special order empower in this behalf. **Delegation of powers by the Provincial Government.**

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[1] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[2] For Notification under this section, *see* Government Notification in the Revenue Department, No. 7230-E, dated the 17th December 1923, published in the *Bombay Government Gazette*, 1923, Part I, p. 2975.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

THE BOMBAY LOCAL BOARDS ACT, 1923.

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2. Repeal of certain Acts.
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SCHEDULES A to E.

BOMBAY ACT No. VI OF 1923.[1]

[THE BOMBAY LOCAL BOARDS ACT, 1923.]

[*17th March 1923.*]

Amended by Bom. 2 of 1925.

" " " 13 of 1925.

" " " 7 of 1926.

" " " 10 of 1927.

" " " 5 of 1928.

" " " 4 of 1930.

" " " 25 of 1930.

" " " 10 of 1931.

" " " 22 of 1931.

" " " 23 of 1931.

" " " 5 of 1932.

" " " 15 of 1932.

" " " 16 of 1933.

" " " 8 of 1934.

" " " 14 of 1934.

" " " 6 of 1935.

" " " 13 of 1935.

" " " 16 of 1935.

" " " 30 of 1935.

" " " 34 of 1935.

" " " 14 of 1936.

" " " 18 of 1936.

" " " 24 of 1936.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1922, Pt. V, pp. 140-145; for Report of Select Committee, *see ibid.*, pp. 191-194; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1922, Vol. VII.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 1 of 1938.*
,, ,, ,, 23 of 1938.
,, ,, ,, 23 of 1939.†
,, ,, ,, 3 of 1940.§
,, ,, ,, 17 of 1945.††
,, ,, ,, 21 of 1945.‡
,, ,, ,, 41 of 1947.
,, ,, ,, 19 of 1948.
,, ,, ,, 10 of 1949.

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* Sections 8 and 9 of Bom. I of 1938 read as under :—

Provision for increase of reserved seats for backward tribes in certain districts.

"8. (1) Notwithstanding anything contained in this Act or the rules or orders thereunder, in the case of a local board—

(a) of a district which includes a partially excluded area, or in respect of which the Provincial Government is of opinion that the population of the members of backward tribes residing therein is sufficiently large to justify reservation of seats being made for the purpose of giving them representation, and

(b) which is constituted on a date next following the commencement of this Act, the Provincial Government may, at any time during the term of office of such board, direct by notification in the *Official Gazette*, that the total number of members of such board prescribed by rules or orders under section 133 of the said Act shall be increased to such number as it deems necessary for the purpose of providing seats for the members of backward tribes or adding to the number of seats already reserved for such members under the said rules or orders.

(2) On the publication of such notification elections shall, for the purpose of filling the number of seats so increased, be held in the manner specified in the said Act or the rules or orders thereunder subject to such modification as the Provincial Government may direct.

(3) The period for which the members elected to fill the said seats shall hold office shall be coterminous with the term of office of such board under section 28 of the said Act.

(4) Nothing herein contained shall affect the constitution of any committee which may have been constituted or the election or appointment of any officers who may have been elected or appointed, before the election of the additional members under sub-section (2).

Explanation.—For the purpose of this section, a partially excluded area shall be any of the area in the Province of Bombay specified in the Schedule to the Government of India (Excluded and Partially Excluded Areas) Order, 1936.

Savings.

9. (1) Nothing in this Act shall affect the local boards constituted immediately before the commencement of this Act and no appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by or in respect of such local board shall be deemed to be invalid by reason only of the fact that this Act has come into force.

(2) Notwithstanding anything contained in this Act, any casual vacancy in a local board constituted immediately before the commencement of this Act shall, subject to the provisions of section 33, be filled in the manner provided by the said Act, as if this Act had not been passed."

† Section 4 of Bom. 23 of 1939 reads as follows :—

Act not to apply to suits or proceedings in respect of elections before this Act.

"4. Nothing in this Act shall apply to any suits or proceedings in respect of elections held prior to the date of the coming into force of this Act."

§ This Act has been repealed and re-enacted by Bom. 40 of 1947, s. 2.

†† This Act has been repealed and re-enacted and the amendments made by section 9 and Schedule E to this said Act have been continued in force by Bom. 52 of 1947, s. 2.

‡ This Act has been repealed and provisions of section 3(ii) thereof only have been re-enacted by Bom. 19 of 1948, s. 2.

An Act to consolidate and amend the law relating to local boards.

WHEREAS it is expedient to consolidate and amend the law relating to local boards and local funds and whereas the previous sanction of the Governor-General required by clauses (*a*), (*e*) and (*h*) of sub-section (*3*) of section 80A of the Government of India Act, has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

CHAPTER I—PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Local Boards Act, 1923.

(*2*) It extends to the whole of the Presidency of Bombay except the City of Bombay [1]* *.

Repeal of certain Acts.

Bom. VIII of 1865. Bom. III of 1869. Bom. I of 1884.

2. The Sind Local Funds Act, 1865, the Bombay Local Funds Act, 1869, and the Bombay Local Boards Act, 1884, are hereby repealed: Provided that such repeal shall not affect the liability of any person to pay any sum due from him under any of the said enactments.

Interpretation section.

3. In this Act, unless there is anything repugnant in the subject or context,

(*a*) the words "salaried [2][servant of the Crown]" do not include a retired [2][servant of the Crown] in receipt of a pension or a person in receipt of salary or fees [3][from the Crown] who is not a full-time [2][servant of the Crown];

(*b*) the word "taluka" means any local area for which a taluka board is established, [4][or a taluka committee is appointed under section 38A] inclusive of the portion of such area if any, for the time being within a municipal district or a Military cantonment;

(*c*) the word "Mamlatdar" means in Sind a Mukhtyarkar; and

[5][(*cc*) "Backward tribe" means a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936.

(*dd*) "Harijan" means a person belonging to any of the Scheduled Castes as defined in the Government of India (Scheduled Castes) Order, 1936.]

[6][(*ee*) "Indian Christian" means a person who is a native of India and who professes any form of the Christian religion and whose father or any of whose other male progenitors in the male line is not or was not of European descent;]

[7][(*ff*) "district" means the district referred to in sub-section (*1*) of section 3A or the local area declared as a district under sub-section (*2*) of that section, as altered by the notification, if any, issued under sub-section (*3*) of the same section;]

[8][(*gg*) "octroi" means a tax by way of cess on the entry of goods into a district for consumption, use or sale therein;]

Bom. V of 1879.

(*d*) any word or expression which is defined in the Bombay Land Revenue Code, 1879, and is not hereinbefore defined, shall be deemed to have the meaning given to it by that Code.

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[1] The words "and Aden" were omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "servant of the Government," *ibid.*

[3] The words "from the Crown" were substituted for the words "from the Government," *ibid.*

[4] These words figures and letters were inserted by Bom. 6 of 1935, s. 2.

[5] New clauses (*cc*) and (*dd*) were inserted by Bom. I of 1938, s. 2.

[6] This clause was inserted by Bom. 41 of 1947, s. 4 (*1*).

[7] This clause was inserted by Bom. 19 of 1948, s. 3.

[8] This clause was inserted by Bom. 10 of 1949, s. 2.

Power to constitute local area into district.

CHAPTER II—CONSTITUTION OF LOCAL BOARDS.

[1][3A. (*1*) Save as otherwise provided in this section, every local area constituted as a district from time to time under the Bombay Land Revenue Code, 1879, shall be deemed to be a district for the purposes of this Act. Bom. V of 1879.

(*2*) The Provincial Government may, in special circumstances, by notification in the *Official Gazette*, declare any local area whether in the same district constituted under the Bombay Land Revenue Code, 1879, or in any other such district to be a district for the purposes of this Act and specify therein the name of the district. Bom. V of 1879.

(*3*) The Provincial Government may, by notification in the *Official Gazette*,—

(*i*) exclude from any district any local area comprised therein; or

(*ii*) include in any district any local area in the vicinity thereof; or

(*iii*) cancel a notification issued under sub-section (*2*); or

(*iv*) alter the name of any district.

(*4*) Before issuing a notification under sub-section (*2*) or sub-section (*3*), the Provincial Government shall, by a general notice published in the *Official Gazette*, require a district local board or boards or any persons who may be affected by the issue of such notification, to submit any objections to the proposal, and shall consider the objections submitted within the period specified in such notice.

(*5*) Every notification issued under sub-section (*2*) or clause (*i*) or clause (*ii*) of sub-section (*3*) shall contain a statement of reasons therefor and shall be laid before both the Chambers of the Provincial Legislature.

(*6*) If any district comprises only a part of the district constituted under the Bombay Land Revenue Code, 1879, or two or more districts so constituted or parts of two or more such districts, the Provincial Government may, by notification in the *Official Gazette*, declare which officers shall be considered to be the Collector and the Commissioner, and which other officers referred to in this Act shall be considered as such officers, in respect of that district for the purposes of this Act.] Bom. V of 1879.

Establishment of district and taluka local boards.

4. (*1*) [2][The Provincial Government] shall establish one district local board for each district [3]* * * * and may establish such number of taluka local boards for such areas within the district as it shall deem fit.

(*2*) Local funds shall be administered by local boards established under the provisions of this Act.

(*3*) A district local board and subject to the authority of the district local board, a taluka local board shall have authority for the purposes of this Act over the area for which it has been established, except such portion thereof as is for the time being within the limits of a municipal district or cantonment.

(*4*) Any local board established under the Bombay Local Boards Act, 1884, and existing immediately prior to the coming into force of this Act, shall be deemed to have been established under this Act; Bom. I of 1884.

and in respect of all property, debts, obligations, contracts, agreements, civil and criminal proceedings and any other matter or thing the rights and liabilities of any such local board shall be deemed to vest in the local board so deemed to have been established;

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[1] This section was inserted by Bom. 19 of 1948, s. 4.

[2] These words were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "as constituted from time to time under the Bombay Land Revenue Code, 1879," were deleted by Bom. 19 of 1948, s. 5 (*a*).

and any appointment, notification, notice, tax, order, scheme, licence, permission rule, by-law or form made, issued or imposed in respect of any such local board, under any law other than the Acts repealed by section 2, or, so far as consistent with the provisions of this Act, under any Act so repealed shall be deemed to have been made, issued or imposed under the provisions of such law or this Act respectively in respect of the local board so deemed to have been established under this Act, unless and untill superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under such law or this Act.

[1]* * * * *

Constitution of local boards.

5. [2][(*1*) Every district and taluka local board shall, subject to the provisions of sub-section (*5*), consist of elective members].

[3](*2*) * * * * *
[3](*3*) * * * * *
[3](*4*) * * * * *

(*5*) Any vacancy due to failure to elect at any election or by-election the full number of elected members may be filled by appointment by [4][the Provincial Government].

Number of members of Local Boards, etc., to be prescribed.

[5][**6.** The number of members of each local board, the number and extent of the constituencies by which the members of a local board shall be elected, the number of members to be elected by each constituency and the number of seats, if any, to be reserved for the representation of women, Muslims, Harijans, backward tribes and Indian Christians, shall be as prescribed by orders made by the Provincial Government under clause (*a*) of section 133.]

Constitution of local boards in exceptional cases.

7. (*1*) [4][The Provincial Government] may at any time by notification in the [6][*Official Gazette*] direct that the provisions of sections 5 and 6, and the subsequent provisions of this Act which refer to those sections, or any one or more of the said provisions, shall not apply to any local board to which for exceptional reasons, which shall be set forth in the said notification, [4][the Provincial Government] shall deem such provisions to be unsuitable.

(*2*) In the said notification or any subsequent notification published as aforesaid [4][the Provincial Government] may substitute such provision or provisions as it deems fit for the provision or provisions declared inapplicable to any local board and the provision or provisions so substituted shall have effect, so far as concerns such board, as if they were inserted in this Act.

(*3*) In the event of any notification under sub-section (*1*) being rescinded the local board affected thereby shall, from a date to be fixed in this behalf by [4][the Provincial Government], be constituted in accordance with sections 5 and 6 and the subsequent provisions of this Act having reference thereto.

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[1] Sub-section (*5*) was deleted, by Bom. 19 of 1948, s. 5 (*b*).

[2] This sub-section was substituted for the original by Bom. 1 of 1938, s. 3 (*1*).

[3] Sub-sections (*2*), (*3*) and (*4*) were deleted, *ibid.*, s. 3 (*2*).

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] Section 6 was substituted for the original by Bom. 41 of 1947, s. 4 (*2*).

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

Qualifications necessary for election to local boards.

[1][8. Subject to the provisions of this Act and of any other law for the time being in force,—

(*a*) every person whose name is entered in the list prepared under section 11 for a constituency of a taluka local board may be a candidate at any election for such taluka local board; and

(*b*) every person whose name is entered in any such list for a constituency of the district local board may be a candidate at any election for the district local board.]

General disqualifications of members.

9. (*1*) No person may be a member of a local board who—

(*a*) is less than 21 years of age, or

(*b*) is a Judge of a civil court, or

[2](*c*) (*i*) has been sentenced by a criminal court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such sentence has not expired, or

(*ii*) is a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of that Code, such order not having been subsequently reversed or quashed, if and so long as such order is in force, or V of 1898.

(*iii*) has been removed from office under section 31 and five years have not elapsed from the date of the expiry of such removal,

unless he has, by an order of [3][the Provincial Government] notified in the [4][*Official Gazette*], been relieved from the disqualification arising on account of such sentence, order or removal from office, or

[5](*d*) is a stipendiary officer or servant of a local board, or

[5](*e*) has directly or indirectly, by himself or his partner, any share or interest in any work done by order of a local board, or in any contract or employment with, or under, or by, or on behalf of a local board, [6][or

(*f*) has directly or indirectly by himself or his partner any share or interest in any transaction of loan of money advanced to or borrowed from any officer or servant of the local board.]

(*2*) No person shall be disqualified under clause [7][(*e*)] of sub-section (*1*) for membership of a local board by reason only of such person—

(*a*) having share in any joint stock company or a share or interest in any society registered or deemed to be registered under the [8]Co-operative Societies Act, 1912, which shall contract with or be employed by or on behalf of the local board; or II of 1912.

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[1] This section was substituted for the original section by Bom. 2 of 1925, s.2.

[2] Clause (*c*) was substituted for the original clauses (*c*) and (*d*) and the explanation to clause (*d*) by Bom. 13 of 1925, s. 2 (*1*) (*a*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] Clauses (*e*) and (*f*) were relettered (*d*) and (*e*) respectively by Bom. 13 of 1925, s. 2 (*1*) (*b*).

[6] The word "or" and clause (*f*) were inserted by Bom. 10 of 1949, s. 3.

[7] The letter and brackets "(*e*)" were substituted for the original letter and brackets "(*f*)" by Bom. 13 of 1925, s. 2 (*2*).

[8] See now the Bombay Co-operative Societies Act, 1925 (Bom. 7 of 1925).

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted ; or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board ; or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner[1] ; [2][or]

[3][(*e*) being a police patil, who is an *ex-officio* keeper of village cattle-pounds under the control of the local board.]

(*3*) If any person is elected or appointed to a local board and is subject to any of the disqualifications specified in this section, his seat shall be deemed to be vacant and the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be, of a person thereto, who shall hold office so long only as the person in whose place he is elected or appointed would have held it if he had been eligible to be a member of the board.

(*4*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

Re-eligibility of members.

10. A person who has already been elected or appointed a member of a board on one or more occasions shall, if otherwise duly qualified, be eligible at any time for re-election or re-appointment.

Preparation of list of voters.

11. (*1*) The Collector shall keep a list for each constituency of each local board within his district of the persons qualified to vote in such constituency at elections of members of the local board.

(*2*) Such list shall be prepared by the Collector whenever a date has been fixed for any election of persons to fill the places of persons whose term of office has expired or whenever the Commissioner so directs, and shall be based upon such information as shall be available in the records of the Collector and of the officers subordinate to him, and also upon the past decision of the Collector under section 22 of the [4]Bombay Local Boards Act, 1884, or under section 13.

Bom. I of 1884.

Publication of the lists.

12. (*1*) A list prepared under section 11 shall be published by affixing, in some conspicuous place in or near the office of the local board and of each Mamlatdar and Mahalkari, and in the chavdi or some other public building of each town or village in the district, a copy of the list or of so much of the list as relates to the taluka, town or village.

(*2*) The publication aforesaid shall be made in the vernacular language of the district and where a date has been fixed for any election of persons to fill the places of members whose terms of office have expired, at least three months before such date.

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[1] The semi-colon was substituted for the fullstop by Bom. 10 of 1931, s. 2 (*a*).

[2] The word "or" was added, *ibid.*

[3] This clause was inserted, *ibid.*, s. 2 (*b*).

[4] Bom. 1 of 1884 is repealed by this Act, s. 2.

Revision of lists.

[1][**13.** (*1*)] The Collector may, on application being made to him at any time within one month after the publication of the list aforesaid by any person claiming to be qualified to vote at any election of members of the local board, correct any erroneous entry in the list, or [2][subject to the provisions of sub-sections (*2*) to (*6*)] insert therein the name of any person whose right to be entered in the list is proved to the satisfaction of the Collector. [3]* * * *

[4][(*2*) Before inserting in the list aforesaid the name of any person, the Collector shall publish a notice calling upon persons entered in the list to lodge within seven days from the publication of such notice any objection which they may have to the insertion of such name.

(*3*) Such objection shall be made in writing and shall specify the grounds on which the right of any person to be entered in the list is objected to, the evidence which the objector intends to lead, the address of the objector and his number, if any, in the list, and the area in the district in which his name is entered.

(*4*) An objection which is not lodged within the time specified in sub-section (*2*) or which is lodged by a person not entitled to lodge the same shall be rejected.

(*5*) The Collector shall, on receipt of an objection lodged, fix a date and place for the hearing of the same and shall give notice of such date and place to the claimant.

(*6*) The Collector, after hearing the evidence, if any, adduced, on behalf of the parties, and after such further enquiry as he may deem necessary, shall pass an order on the objection.

(*7*) The Collector's decision under this section shall be final and conclusive.]

Final publication of list.

14. (*1*) The Collector, after revising the list as provided in section 13, shall republish the same within two months from the date of publication under section 12 in the manner provided in that section.

[5][(*2*) Every person whose name is in the revised list last published before the date of any election for any constituency shall be qualified to vote and every person whose name is not in such list shall not be qualified to vote at the election of a member for the constituency for which such list has been prepared.

(*3*) Every person whose name is in the revised list last published before the date of any election for any of the constituencies of any local board shall be qualified to be elected and every person whose name is not in any such list shall not be qualified to be elected at the election for any constituency of such local board.

(*4*) The revised lists referred to in sub-sections (*2*) and (*3*) shall be conclusive evidence for the purpose of determining under this section whether any person is qualified or is not qualified to vote or is qualified or is not qualified to be elected, as the case may be, at any election.]

What persons may be voters at elections.

[6][**15.** (*1*) Unless disqualified under this Act or under any other law for the time being in force, the following persons shall, subject to the provisions of sub-section (*2*),

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[1] Section 13 was renumbered as s. 13 (*1*) by Bom. 23 of 1939, s. 2 (*1*).

[2] These words figures and barackets were inserted, *ibid.*, s. 2 (*1*) (*i*).

[3] The words "The Collector's decision shall be final and conclusive" were omitted, *ibid.*, s. 2 (*1*) (*ii*).

[4] Sub-sections (*2*) to (*7*) were added, *ibid.*, s. 2 (*2*).

[5] Sub-sections (*2*) to (*4*) were substituted for sub-sections (*2*) and (*3*), *ibid.*, s. 3.

[6] Section 15 was substituted for the original section by Bom. 18 of 1936, s. 2.

be entitled to have their names entered in the list for a constituency prescribed under section 6 qualifying them to vote at elections of members of local boards in such constituency, namely :—

Every person who on the first day of January next preceding the date on which the list is published under section 12 had a place of residence within the constituency, and

(*a*) whose name is entered in the current electoral roll of a territorial constituency of the Bombay Legislative Assembly for an area constituting or forming part of a constituency prescribed under section 6, or

(*b*) who was assessed to any tax imposed by a local board (other than a toll or octroi) in the financial year preceding that in which the list is published under section 12.

(*2*) A person whose name is entered in the current electoral roll of a territorial constituency of the Bombay Legislative Assembly shall not, by reason only of the entry of his name in such electoral roll, be entitled to have his name entered in the list for a constituency prescribed under section 6, if the place of residence of such person on the date referred to in sub-section (*1*) is within the limits of a municipal district or a cantonment comprised in such constituency, unless such person possesses, on the aforesaid date, a property qualification entitling his name to be included in the electoral roll for the area referred to in clause (*a*) of sub-section (*1*).

(*3*) [1]* * * * *

Provided [1]* that no person shall be entitled to have his name registered on the electoral roll of more than one constituency of the same taluka local board or of more than one constituency of the same district local board.

Explanation.—For the purposes of this section—

(*1*) the current electoral roll of a territorial constituency of the Bombay Legislative Assembly shall mean the electoral roll for the time being in force of a territorial constituency of the Bombay Legislative Assembly prepared and published under the Bombay Legislative Assembly Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936.

(*2*) "property qualification" means any of the qualifications dependent on property as prescribed in clauses (*a*), (*b*) and (*c*) of paragraph 3 of Part III of the Sixth Schedule to the Government of India Act, 1935, or clauses (*a*) and (*b*) of paragraph 5 of Part III of the Government of India (Provincial Legislative Assemblies) Order, 1936.]

15A. [*Provisions of section 15 (3), clauses (a) and (b) to cease to be in force.*] *Repealed by Bom. 41 of 1947, s. 4 (4).*

16. No person who is less than twenty-one years of age shall be entitled to have his name entered in a list prepared under section 11. General disqualification of voters.

[1] The first proviso and the word further in the second proviso were deleted by Bom. 41 of 1947, s. 4 (*3*).

Elections when to be held.

17. Every election requisite for the purposes of this Act shall be held on such date as the Collector shall fix in this behalf:

Provided that, when the elections are for the purpose of filling the places of members whose terms of office have expired, such dates shall be not sooner than two months and not later than one month before the commencement of the term of office of members of the board to which such elections are to be made.

Provisions for election or nomination in particular cases.

18. (*1*) If at any election of a member of a local board under this Act there is an equal number of votes in favour of each of two or more persons who are willing to take office, and the addition of one vote will entitle any of the persons to be elected the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by the Collector, or by such officer as he may empower in this behalf, by lot in such manner as he shall deem fit.

(*2*) If any person duly elected at any such election declines to take office, the person, if any, amongst the unsuccessful candidates in whose favour the highest number of votes has been recorded and who is willing to take office shall be deemed to be the member elected.

(*3*) If at any contested election no votes are recorded, or if for any reason an election does not result in the return of the required number of qualified persons willing to take office, the Collector, in the case of a taluka local board, and the Commissioner, in the case of a district local board, shall appoint the required number of persons, being persons who would have been qualified to be elected, and the persons so appointed shall be deemed to be members of the local board as if they had been duly elected.

Determination of validity of elections: enquiry by Judge: procedure.

19. (*1*) If the validity of any election of a member of a local board, or the legality of any order or proceeding made or held under section 18 is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within fifteen days after the date of the declaration of the result of the election or the date of the order or proceeding, apply to the District Judge of the district within which the election has been or should have been held for the determination of such question:

[1][Provided that in the case of any election of a member of a local board, or any order or proceeding made or held under section 18 in connection with any election, in any area specified in Part II of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, this sub-section shall be construed as if for the words "of the district within which the election has been or should have been held" the words "of Thana" were substituted.] Bom. XVII of 1945.

(*2*) An enquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by [2][the Provincial Government] either specially for the case or for such cases generally; and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or the order of the Collector under section 18, or setting the election aside. For the purposes of the said enquiry the said Judge may exercise any of the powers of a civil court and his decision shall be conclusive. If he sets aside an election, a date shall forthwith be fixed and the necessary steps taken, for holding a fresh one.

[1] This proviso was added by Bom. 17 of 1945, s. 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1][(2*A*) All applications received under sub-section (*1*) :—

(*a*) in which the validity of the election of members to represent the same constituency is in question shall be heard by the same Judge ; and

(*b*) in which the validity of the election of the same member elected to represent the same constituency is in question shall be heard together.

V of 1908. (*2B*) Notwithstanding any thing contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.]

(*3*) (*a*) If on holding such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (*4*), he shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

(*b*) If, in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it :

[2][Provided further that after such computation if an equality of votes is found to exist between any candidates and the addition of one vote will entitle any of the candidates to be declared elected, one additional vote shall be added to the total number of valid votes found to have been received in favour of such candidate, or candidates, as the case may be, selected by lot drawn in the presence of the Judge in such manner as he may determine.]

(*4*) A person shall be deemed to have committed a corrupt practice—

(*a*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(*b*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

And a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation.—The expression "a promise of individual profit"—

(*i*) does not include a promise to vote for or against any particular measure which may come before a local board for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

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[1] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1936, s. 2.

[2] This proviso was inserted by Bom. 10 of 1949, s. 4.

(5) If the validity of the election is brought in question only on the ground of an error made by the officer charged with carrying out the rules made in this behalf under clause (*b*) of section 133, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

(6) If the Judge sets aside an election under clause (*a*) of sub-section (3), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section to be disqualified from being a member of any local board for a term of years not exceeding five and the decision of the Judge shall be conclusive:

Provided that such person may, by an order of [1][the Provincial Government] in that behalf, be at any time relieved from such disqualification:

Provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration shall not be made.

Voter disqualified for corrupt practice.

20. Any person who has been convicted under section 171E or 171F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall, for five years from the date of such conviction or disqualification, be disqualified from voting at any election to a local board or at any municipal election. XLV of 1860.

Publication of names of members in the *Official Gazette*.

21. The names of all members finally elected to any local board as well as the names of the nominated members, if any, appointed thereto shall be published, as soon as conveniently may be, in the [2][*Official Gazette*].

Election of presidents.

22. (1) Every local board shall be presided over by a president, elected by the board from among its own members.

Vice-presidents.

(2) The board shall also elect one of its members to be vice-president.

Presidents and vice-presidents not to be salaried servants of the Crown.

(3) A salaried [3][servant of the Crown] shall not be elected president or vice-president of a local board and the election of any such servant as such shall be void.

Functions of presidents.

23. (1) The president of a local board shall—

(*a*) preside at the meetings of the board;

(*b*) watch over the financial and executive administration of the board and submit to the board all questions connected therewith which shall appear to him to require its orders;

(*c*) exercise supervision and control over the acts and proceedings of all officers and servants of the board in matters of executive administration, and in matters concerning the accounts and records of the board; and, subject to the regulations at the time being in force framed by the board under section 123, dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances; and

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "servant of the Crown" were substituted for the words "servant of the Government", *ibid.*

(*d*) furnish to the Collector or to such other officer as the Collector shall from time to time nominate in this behalf a copy of every resolution passed at every meeting of the board and any extract from the minutes of the proceedings of the board, or other document or thing which the Commissioner, Collector or other duly authorised [1][servant of the Crown] may from time to time call for under section 124.

Emergency powers of president.

(*2*) The president of a local board may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the local board, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the local fund :

Provided that—

(*a*) he shall not act under this section in contravention of any order of the local board prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reasons therefor to the standing committee at its next meeting.

Functions of vice-presidents.

24. The vice-president of a local board shall—

(*a*) in the absence of the president preside at the meetings of the board ;

(*b*) exercise such of the powers and perform such of the duties of the president as the president from time to time deputes to him ; and

(*c*) pending the election of a president, or during the absence of the president on leave, exercise the powers and perform the duties of the president.

Consequence of absence of president or vice-president without leave.

25. (*1*) Every president of a local board who for a period exceeding three months, and every vice-president who for a period exceeding one month, shall absent himself from the district or taluka for which the local board is established in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president, as the case may be, unless leave so to absent himself has been granted by the board or in the case of a vice-president by the president.

Limit to the grant of leave, and arrangements pending absence of president or vice-president.

(*2*) Leave under sub-section (*1*) shall not be granted for a period exceeding six months, and whenever leave is granted to a president or vice-president under that sub-section, the board shall elect one of its members to exercise all the powers and perform all the duties of a vice-president in lieu of the vice-president who is exercising the powers and performing the duties of the president, or who is absent on leave during the period for which such leave is granted.

Term of office of president and vice-president and their liability to be removed.

26. (*1*) The term of office of every president or vice-president shall cease on the expiry of his term of office as a member of the local board over which he presides : provided that he shall be removable from office, as such president or vice-president, by [2][the Provincial Government] for misconduct, or neglect of or incapacity to perform his duty [3][and a president or vice-president so removed shall not be eligible for re-election or appointment during the remainder of the term of office of the local board.]

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[1] The words "servant of the Crown" were substituted for the words "officer of the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

[3] These words were added by Bom. 10 of 1949, s. 5 (*a*).

Casual vacancies in their office how to be filled up.

(*2*) In the event of the death, resignation, or removal from office of a president or vice-president, or of his becoming incapable of acting, or ceasing to be a member of the local board, previous to the expiry of his term of office, the vacancy shall [1][subject to the provisions of sub-section (*1*)] be filled up as soon as conveniently may be by the election of [2][a member] of the board thereto.

Inability of president or vice-president to call a meeting.

(*3*) Where the president and vice-president are unable or for any reason fail to call a meeting for the purpose of an election under sub-section (*2*) the Collector may exercise the powers of the president for the purpose of calling such meeting.

President and vice-president to continue to carry out certain duties until their successors take over charge.

27. On the expiry of the term of office of a local board the president and vice-president shall continue to carry out the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties:

Provided that in the case of the new board constituted under this Act, a meeting for the election of a new president shall be called by the president of the retiring board.

[3][The president or vice-president of the retiring board and, in their absence, the chief officer, if any, shall preside at such meeting, and the new board shall then elect its own chairman for that meeting: provided that (*a*) if the president or vice-president so presiding is a member of the new board, he shall be entitled to vote only as such member, and (*b*) the chief officer, when so presiding shall have no right to vote. In case of an equality of votes the result of the election of the chairman shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. The chairman so elected shall then preside at such meeting and the meeting shall then proceed to elect the new president.]

[4][Provided further that, where no meeting for the purpose of such election has been held within fifteen days from the expiry of the term of office, the Collector may exercise the powers of the president for the purpose of calling such meeting.]

Term of office.

28. Except as is otherwise provided in this Act or in any other law for the time being in force, members of local boards shall hold office for a term of three years extensible by order of the Commissioner to a term not exceeding in the aggregate four years if on any occasion the Commissioner shall think fit, for reasons which shall be notified, together with the order, in the [5][*Official Gazette*], so to extend the same.

Extension of term of office of members of local boards in Sind.

[6][**28A.** Notwithstanding anything contained in section 28, the term of office of the members of all local boards in Sind is hereby extended up to and inclusive of the 31st day of March 1933.]

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[1] This portion was inserted by Bom. 10 of 1949, s. 5 (*b*).

[2] These words were substituted for the original words, *ibid.*

[3] These words were substituted for the words "The president of the retiring board shall preside at such meeting and the new board shall then elect its own chairman for that meeting and then the meeting shall proceed to elect the new president," by Bom. 4 of 1930, s. 3.

[4] This proviso was added by Bom. 10 of 1927, s. 2.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[6] This section was inserted by Bom. 5 of 1932, s. 2.

[1][29. (*1*)] The vice-president or any member of a local board other than the president may resign his office as a member of the board by giving notice in writing to the president. The president may resign his office as a member of the board by giving notice in writing to the Commissioner. Resignation of office as member of board.

[2][(*2*) The vice-president may resign his office as vice-president by giving notice in writing to the president. The president may resign his office as president by giving notice in writing to the Commissioner.] Resignation of president and vice-president.

30. (*1*) Any member of a local board who, during the term for which he has been elected or appointed— Disqualification of member after election.

(*a*) becomes disqualified under sub-section (*1*) of section 9, or

(*b*) having any share or interest such as is described in clause (*a*) or (*b*) of sub-section (*2*) of section 9, acts as a member of the local board in any matter relating to a contract or agreement between the local board and the company or society or the manager or publisher of the newspaper described in the said clauses, or

(*c*) is absent for more than four consecutive months from the district or taluka for which the board is established, unless leave so to absent himself, which shall not exceed six months, has been granted by the board, or in the case of a vice-president by the president, or absents himself for six consecutive months from meetings of the board without the leave of the board,

shall cease to be a member and his office shall become vacant :-

[3][Provided that where an application is made by a member to the local board for leave to absent himself under clause (*c*) and the Board fails to inform the applicant of its decision on the application within a period of three months from the date of the application, the leave applied for shall be deemed to have been granted by the Board.]

(*2*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Commissioner shall be final for the purpose of deciding such question, dispute or doubt.

31. [4][The Provincial Government] in the case of a district local board, and the Commissioner in the case of a taluka local board, may, if it or he thinks fit, on the recommendation of the local board, remove any member of such local board, elected or appointed under this Act, after giving him an opportunity of of being heard and after such inquiry as [4][the Provincial Government)] or the Commissioner, as the case may be, deems necessary if such member has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct, or has become incapable of performing his duties as a member of the local board. Removal of member for misconduct, etc.

32. (*1*) On the occurrence of any vacancy in a local board the president shall forthwith communicate such occurrence to the Collector. Vacancies to whom to be communicated.

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[1] Section 29 was renumbered as section 29 (*1*) by Bom. 10 of 1927, s. 3.

[2] Sub-section (*2*) was added, *ibid.*

[3] This proviso was added by Bom. 10 of 1949, s. 6.

[4] The words "the Provincial Government", were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*2*) If the member of such board whose seat has become vacant was a nominated member, and the Collector is not authorised under section 5 to appoint members of such boards, the Collector shall on receipt of such communication forward it to the officer, if any, authorized, as aforesaid, or, if no officer is so authorized, to [1][the Provincial Government] through the Commissioner.

Casual vacancies how to be filled up.

33. In the event of a vacancy occurring on account of the death, resignation, disqualification, or removal of a member of a local board or through a member becoming incapable of acting, previous to the expiry of his term of office, the vacancy shall be filled up, as soon as conveniently may be, by the election or appointment, as the case may be, of a person, thereto, who shall hold office so long only as the member in whose place he is elected or appointed would have held it if the vacancy had not occurred :

[2][Provided that notwithstanding anything contained in section 5, if the vacancy be of an elected member and occurs within four months preceding the date on which the term of office of the members of the local board expires under section 28, the vacancy shall not be filled.]

Temporary provisions pending election of boards under this Act.

34. Notwithstanding anything contained in this Act, local funds shall be administered, so far as may be under the provisions of this Act, by the local boards deemed to have been established under the provisions of this Act under clause (*4*) of section 4, as constituted immediately prior to the coming into force of the provisions of this Act, until such date as [1][the Provincial Government] shall prescribe in this behalf in respect of each such board. The president, vice-president and members of such boards as constituted immediately prior to the passing of this Act shall be deemed to have been appointed or elected under the provisions of this Act and their term of office shall expire on the aforesaid prescribed date.

CHAPTER III—Conduct of Business of Local Boards.

Meetings of local boards.

35. (*1*) A local board shall meet together not less than once in every three months and shall from time to time make regulations, consistent with this Act and with any rules or orders made by [1][the Provincial Government] in this behalf under clause (*c*) of section 133 with respect to the place, day, hour, notice, management, and adjournment of such meetings and generally with respect to the transaction of business, as it thinks fit, subject to the provisions of the following sub-sections.

(*2*) (*a*) The president shall fix the dates for the quarterly meetings hereinbefore prescribed and may whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the members and for a date within twenty-one days from the receipt of such request, call a special meeting.

(*b*) [3][Fifteen] clear days' notice of a quarterly meeting and [4][ten] clear days' notice of a special meeting specifying the time and place at which such meeting is to be held and the business to be transacted thereat, shall be circulated to the

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This proviso was inserted by Bom. 16 of 1935, s. 2.

[3] The word "Fifteen" was substituted for the word "Twenty-one", by Bom. 8 of 1934, s. 2.

[4] The word "ten" was substituted for the word "fourteen", *ibid.*

members and posted up at the local board office. Such notice shall include in the case of a special meeting any motion or proposition mentioned in any written request made for such meeting.

(*c*) If less than one-third of the whole number of members be present at a meeting at any time from the beginning to the end thereof, the presiding authority shall adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the local board office, and the business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof, whether there be a quorum present or not.

(*d*) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the board such as should be held in private, and provided that the said authority may at any time cause any person to be removed who interrupts the proceedings.

(*e*) Every meeting shall be presided over by the president, or he be absent, by the vice-president, and if both the president and vice-president are absent, by such one of the members present as may be chosen by the meeting to be chairman for the occasion.

(*f*) All questions shall be decided by a majority of votes of the members present, the president, vice-president or chairman, as the case may be, having a second or casting vote in all cases of equality of votes.

(*g*) Except with the permission of the presiding authority, which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any quarterly meeting unless it has been entered in the notice convening such meeting or, in the case of a special meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

(*h*) Any quarterly meeting may, with the consent of a majority of the members present, be adjourned from time to time; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

(*i*) No resolution of a local board shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of members and passed at a quarterly meeting, whereof notice shall have been given fulfilling the requirements of clause (*b*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

(*j*) Except for reasons which the presiding authority deems emergent, no business relating to any work which is being executed, or which under section 45 may only be executed for the board by the Government Executive Engineer of the district, or to any educational matter, shall be transacted, at any meeting of a local board, unless at least fifteen days previous to such meeting a letter has been addressed to an officer of the Government Public Works and Educational

Departments, respectively—who is not a member of the board, but is entitled unded section 40 to be present at such meeting informing him of the intention to transact such business thereat and of the motions or propositions to be brought forwarr concerning such business.

(*k*) Minutes shall be kept of the names of the members and of the Government officers, if any, present under the provisions of section 40 and of the proceedings at each meeting of the board, and if any member present at the meeting so desire, of the names of the members voting, respectively, for or against any resolution, in a book to be provided for this purpose, which shall be signed, as soon as practicable, by the president, vice-president or chairman of such meeting and shall at all reasonable times be open to inspection by any member of the board or by any inhabitant of the district.

(*l*) Every regulation made under this section by a taluka local board shall be subject to the approval of the district local board to which such taluka local board is subordinate.

Vacancy not to affect proceedings of board or committee.

(*3*) During any vacancy in a local board the continuing members may act as if no vacancy had occurred.

Acts of board, etc. not to be invalidated by informalities.

(*4*) No act of a board, or of any person acting as a member or as a president, vice-president or chairman, shall be deemed to be invalid by reason only of some defect in the appointment of such board, president, vice-president, chairman, or member, or on the ground that they, or any of them, were disqualified for the office of members, or that formal notice of the intention to hold a meeting of the board was not duly given, or for any other such mere informality.

Standing Committee.

36. (*1*) Every local board shall appoint a standing committee consisting of such number of members not being more than seven and not less than five as the board may determine.

(*2*) The standing committee shall perform the functions allotted to it under this Act, and subject to any limitations or other provisions contained in rules made under section 133, clause (*c*) or regulations made under section 35, sub-section (*1*), shall exercise all the powers and perform all the duties of the local board which have not been delegated to any other committee.

(*3*) The president shall be *ex-officio* a member and chairman of the standing committee in addition to the members appointed under sub-section (*1*).

Public Health Committee.

37. (*1*) Every district local board may appoint a public health committee, consisting of such members of the board as the board may elect. The said members may co-opt the Civil Surgeon of the district or any medical or sanitary [1][servant of the Crown] or a legally qualified medical practitioner to be a member of the committee for a period not exceeding the term of their own office.

(*2*) Such committee shall, subject to any limitations or other provisions contained in rules made under clause (*c*) of section 133 or regulations made under sub-section (*1*) of section 35, perform the duties and exercise the powers of the district local board in regard to matters of public health and sanitation, and shall give effect to the provisions of this Act and to any by-laws framed under this Act

[1] The words "servant of the Crown" were substituted for the words "officer of the Government" by the Adaptation of Indian Laws Order in Council.

regarding such matters and may delegate any of its duties or powers to any member or honorary or stipendiary officer of the board. Such member or officer shall conform to any instructions that may from time to time be given by the board. The Committee may at any time withdraw any of the duties or powers so delegated.

Other executive committees.

38. (*1*) A local board may appoint committees consisting of such members as the local board may decide or any member or honorary or stipendiary officer of the board to exercise the powers and perform the duties of the local board in respect of any purpose subject to any limitations and provisions contained in rules made under section 133 (*c*) or regulations made under section 35 (*1*); not being where a public health committee has been appointed, powers or duties referred to in section 37, sub-section (*2*).

(*2*) Where a committee is appointed to manage a dispensary, the local board may appoint any local residents to be members of such committee.

(*3*) Any such committee, member or officer shall comply with any instruction that may from time to time be given by the board.

(*4*) The board may at any time discontinue or alter the constitution of any such committee or withdraw any of the powers or duties which any such committee, person or officer has been appointed to exercise or perform.

Abolition of taluka local boards and appointment of taluka committees.

[1][**38A.** (*1*) When, in the opinion of [2][the Provincial Government] it is in the interest of the inhabitants of a taluka that the taluka local board should be abolished, it shall be competent to [2][the Provincial Government] by notification in the [3][*Official Gazette*] to abolish the said taluka local board, from a date to be specified in the notification.

(*2*) Where a taluka local board is abolished under sub-section (*1*) [2][the Provincial Government] may, on an application made by the district local board or otherwise, by a notification in the [3][*Official Gazette*] direct that a taluka committee shall be appointed from a date to be specified in the notification for the area which was subject to the authority of such taluka local board.

(*3*) On the publication of the notification under sub-section (*2*), the district local board shall appoint a taluka committee in accordance with the provisions of sub-section (*4*).

(*4*) A taluka committee shall consist of such number of members not being less than seven as shall be prescribed by an order made under clause (*cc*) of section 133. Every member of the district local board resident within the area for which a taluka committee is appointed shall be *ex-officio* a member of the taluka committee and the remaining members of the taluka committee shall be appointed by the district local board from among persons resident in the said area in a manner prescribed by rules made under clause (*cc*) of section 133.

(*5*) A taluka committee shall, subject to any limitations or other provisions contained in rules made under clause (*cc*) of section 133 or regulations made under sub-section (*1*) of section 35, exercise such powers and perform such duties of supervision and advice as may be assigned to it by the district local board.

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[1] Section 38A was inserted by Bom. 6 of 1935, s. 3.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*6*) The provisions of sections 39 to 41 shall so far as may be, apply to a taluka committee.]

Committees. Term of Office. Vacancies. Chairman. Procedure. Meetings. Adjournments. Quorum.

39. (*1*) The term of office of the members of a committee shall expire on the termination of one year from the date of appointment of the members or on such earlier date as the local board may direct.

(*2*) A vacancy occurring in any committee shall as soon as possible be filled up by the appointment or co-option as the case may be of a member thereto. A member appointed under this sub-section shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

(*3*) (*a*) The president or vice-president, if appointed a member of any committee, shall be *ex-officio* chairman thereof.

(*b*) A local board may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(*c*) A committee of which there is an *ex-officio* chairman or a chairman appointed by the local board, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

(*d*) A committee, of which there is no *ex-officio* chairman or chairman appointed by the local board, shall appoint from time to time a chairman from the members of such committee.

(*4*) The provisions of section 35, sub-section (*2*), clauses (*f*), (*j*) and (*k*) and sub-sections (*3*) and (*4*), shall apply to committees as if the word "committee" had been substituted for the words "board" or "local board".

(*5*) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall upon the written request of the president of the local board or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

(*6*) No business shall be transacted at any meeting of a committee unless more than one-half of the members of the committee be present thereat.

Certain Government officers may attend meetings of district local boards.

40. (*1*) The Executive Engineer, the Educational Inspector and the Deputy Director of Public Health, and the Civil Surgeon of a district, when charged with any of the duties of a health officer therein, [1]* a Deputy Director of Agriculture or an Assistant Registrar of Co-operative Societies charged with any duties of his office in the district, if not members of the district local board, [2][and, in the case of educational matters, when the chairman of the school board is not a member of the district local board, such chairman or the vice-chairman or the administrative officer of the school board or, when the chairman is a member of the district local board but is for any reason unable to be present, the vice-chairman or the administrative officer of the school board,] shall have the right of being present at any meeting of the said board, or of any committee thereof, and with the consent of the board or committee, each of them may take part at such meetings in the discussion or consideration of any question on which in virtue of the duties of his office he considers his opinion or the information which he can supply will be useful to such board or committee: provided that the said [3][persons] shall not, unless they are members of the board, be entitled to vote upon any such question.

[1] The word "and" was repealed by Bom. 10 of 1927, s. 4 (*i*).

[2] These words were inserted, *ibid.*, s. 4 (*ii*).

[3] The word "persons" was substituted for the word "officers", *ibid.*, s. 4 (*iii*).

(2) Any officer of the Government, Public Works Department not lower in rank than an overseer employed in a taluka, and any officer of the Government, Educational Department not lower in rank than the Assistant Deputy Educational Inspector of a taluka may, in the like circumstances and subject to the same proviso, take part in the discussion or consideration of any such question as aforesaid at any meeting of the taluka local board of such taluka or of any committee of the said board. Certain Government officers may attend meetings of taluka local boards.

(3) If it shall appear to a district local board or to a taluka local board that the presence of any of the above officers respectively is desirable in the circumstances aforesaid at any future meeting of such board, or of any committee thereof, it shall be competent to such board by letter addressed to such officer not less than fifteen days previous to the intended meeting to require his presence thereat; and the said officer, unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting. Local boards may require the presence of the said officers at their meetings.

41. (1) Whenever it appears to the president of a local board, or to the chairman of a committee unnecessary to convene a meeting, he may instead of so doing circulate a written proposition of his own, or of any other member of such board or committee, or of any executive officer of the board for the observations and votes of the members. President may circulate written propositions.

(2) Previous to circulating any such propositions for the votes of members the president or chairman may, if he thinks fit, and if the business to which it relates is of the nature described in clause (*j*) of sub-section (2) of section 35 shall obtain thereupon the remarks, if any, which any Government officer, not a member of the board, who is entitled under the provisions of section 40 to be present at any meeting at which such proposition might be considered, desires to record.

(3) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members who vote upon it, unless a special meeting is convened to consider the proposition under clause (*a*) of sub-section (2) of section 35 or sub-section (5) of section 39.

(4) Every decision arrived at by the board under this section shall be recorded in the minute-book kept under clause (*k*) of sub-section (2) of section 35 or sub-section (4) of section 39.

42. (1) The president of a local board may, on behalf of the board, enter into any contract or agreement in such manner and form as, according to the law for the time being in force, would bind him if such contract or agreement were on his own behalf: provided that the amount or value of such contract or agreement shall not exceed five hundred rupees in the case of a district local board, or two hundred rupees in the case of a taluka local board. Mode of executing contracts.

(2) Every other contract or agreement on behalf of a local board shall be in writing, and shall be signed by the president and by two other members of the board, and sealed with the common seal of the board.

(3) No contract or agreement not executed as in this section provided shall be binding on a local board.

43. (*a*) Except as is hereinafter otherwise provided, no member of a local board shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of such board; the local fund at the disposal of each local board shall be liable for and be charged with all costs in respect of any such contract or agreement and all such expenses: Local funds ordinarily liable for all costs and expenses incurred by boards

But members to be held responsible for misapplied or wasted funds and property.

(*b*) Provided that every member of a local board shall be personally liable for the misapplication of any money or other property of the local board, to which he has been a party or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member and may be sued by the local board concerned, with the sanction of [1][the Provincial Government] or by [1][the Provincial Government] for recovery of or compensation for the misapplication of such money or property; and any money or property so recovered by [1][the Provincial Government] shall after satisfaction therefrom of the necessary expenses of such recovery, be delivered to the local board.

Power to compromise.

44. (*1*) A local board may compromise in respect of any suit instituted by or against it, or in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient:

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compromising any claim or demand arising out of such contract.

(*2*) A local board may make compensation out of the local fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it and its officers and servants under this Act.

Works to be executed by the Government Executive Engineer.

45. (*1*) Such of the works for which plans and estimates prepared or approved by the Government Executive Engineer of the district are required by clause (*b*) of sub-section (*1*) of section 89 as [1][the Provincial Government] shall from time to time by a general or special order direct, shall be executed by the said Executive Engineer, who for this purpose shall exercise the same powers as if he were executing a work for [1][the Provincial Government], and shall have control over all officers and servants of the local board, if any, assisting in the execution of any of the said works.

Works which may be executed by other agency.

(*2*) All other works shall be executed by such agency and subject to such supervision as the local board at whose cost any such work is to be executed thinks fit: provided that any such work shall be executed by the Government Executive Engineer of the district in the manner described in sub-section (*1*) if the said board communicates a desire to that effect.

Payment of Government establishment employed by Government Executive Engineer.

(*3*) When any work is executed under this section by a Government Executive Engineer either wholly or partly with the aid of his own Government establishment, such charge shall be payable on account of such establishment by the local board at whose cost the work is being executed as shall be agreed upon between such board and the said Executive Engineer: provided that no charge shall in any case be made on account of the services of the Executive Engineer.

Repairs not to be commenced without plans and estimates.

[2]**[45A.** No work of repairs shall be commenced unless a detailed estimate of the cost of such work has been approved by the local board and in the case of a work of which the total cost is to exceed three thousand rupees, plans and estimates have either been prepared or approved by the Government Executive Engineer of the district, or by an Engineer employed by the board and approved by [1][the Provincial Government].]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] Section 45A was inserted by Bom. 10 of 1927, s. 5.

46. (*1*) A district local board may, from time to time, concur with any other district local board or with any municipality or cantonment [1][authority], or with more than one such local board, municipality or [1][authority]— Joint committees of two or more local bodies.

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee ; and

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies ; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

[2][(*1A*) A district local board may from time to time enter, subject to the sanction of [3][the Provincial Government], into an agreement with a district local board, municipality, cantonment authority or committee appointed for a notified area or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.]

Explanation.—For the purpose of this sub-section, octroi duty includes a terminal tax.

(*2*) Where [4][a district local board] has requested the concurrence of any other local authority under the provisions of sub-section (*1*) [5][or (*1A*)] in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority, not being a cantonment [6][authority], in the matter aforesaid and such other local authority shall comply with such orders.

(*3*) If any difference of opinion arises between local bodies [7][acting under this section] the decision thereupon of [8]* * * [3][the Provincial Government], [9][or of such officer as it appoints in this behalf] shall be final :

[10][Provided that, where one of the local bodies is a cantonment authority, the decision of the Provincial Government, or of the officer, shall be subject to the concurrence of the Central Government.]

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[1] The word "authority" was substituted for the word "Committee" by Bom. 14 of 1934, s. 3 (*1*) (*i*).

[2] This sub-section was inserted, *ibid.*, s. 3 (*1*) (*ii*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "a district local board" were substituted for the words "any local authority", *ibid.*, s. 3 (*1*) (*iii*) (*a*).

[5] The word, figure, letter and brackets "or (*1A*)" were inserted, *ibid.*, s. 3 (*1*) (*iii*) (*b*).

[6] The word "authority" was substituted for the words "Committee" by Bom. 14 of 1934, s. 3 (*iii*) (*c*).

[7] The words "acting under this section" were substituted for the words, figures and brackets "having concurred in any action under sub-section (*1*) or (*2*), in respect of any matter arising out of such action", *ibid.*, s. 3 (*1*) (*iv*) (*a*).

[8] The words "the Commissioner, if the local bodies are in one division, and of" were deleted, *ibid.*, s. 3 (*1*) (*iv*) (*b*).

[9] The words "or of such officer as it appoints in this behalf" were substituted for the words "if they are in different divisions", *ibid.*, s. 3 (*1*) (*iv*) (*c*).

[10] This proviso was inserted by the Adaptation of Indian Laws Order in Council.

CHAPTER IV—INCORPORATION OF LOCAL BOARDS, PROPERTY, POWERS AND DUTIES.

Incorporation of local boards.

47. Every local board shall be a body corporate by the name of "The District Local Board of " or "The Taluka Local Board of " as the case may be, and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable, whether within or without the limits of the area over which it has authority, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it, and to contract and to do all other things necessary for the purposes of this Act:

Provided that no lease of immovable property for a term exceeding seven years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Commissioner.

Vesting of future local works.

48. Every road, building or other work constructed by a local board shall vest in such local board.

Power to decide whether property vest in taluka or district board.

49. When any doubt arises whether any property vests in the local board established for any taluka or in the district local board having authority over such taluka, [1][the Provincial Government] may decide in which of the two boards it vests, and any such decision shall be final.

Obligatory duties.

50. It shall be the duty of local boards, so far as the local fund at their disposal will allow, to make adequate provision for the areas respectively subject to their authority in regard to the following matters, namely :—

(*a*) the construction of roads and other means of communication and the maintenance and repair of all roads and other means of communication vesting in them;

(*b*) the construction and repair of hospitals, dispensaries, markets, dharmasalas and other public buildings and the visiting, management and maintenance of these institutions;

(*c*) the construction and repair of public tanks, wells and water-works, the supply of water from them and from other sources, and the construction and maintenance of works for the preservation of water for drinking and cooking purposes from pollution;

(*d*) the provision of suitable accommodation for, and the visiting and maintenance of primary schools, and the payment if necessary, of stipends to persons qualifying as teachers for primary schools during the period of their training for such qualification, and the general development and extension of primary education;

(*e*) public vaccination, and sanitary works and measures necessary for the public health;

(*f*) the planting and preservation of trees by the side or in the vicinity of roads vesting in such boards;

(*g*) the maintenance of any property vesting in them; and

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*h*) the payment at such rates and subject to such conditions as [1][the Provincial Government] from time to time by general or special order may direct of the expense of maintenance and treatment in any institution which [1][the Provincial Government] declares by notification to be suitable for such purpose, either within or without the district, and other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institutions, and proceeding to and returning from such institutions; and local boards may at their discretion provide out of the said fund for the following matters, namely :— Discretionary powers of expenditure.

(*i*) the payment to members of the board of expenses incurred in travelling for the purpose of the business of the board, in accordance with rules made in this behalf under clause (*d*) of section 133, provided that no such payment shall be made to a salaried [2][servant of the Crown] [3][who is in receipt of travelling allowance as such [4]* * *];

(*j*) the establishment and maintenance of model farms, the acclimatization of exotics, the importation and distribution of superior kinds of seed, the improvement of the breed of cattle and horses, the introduction and preservation of fish and the advancement and improvement of agriculture and local industries;

(*k*) the establishment and maintenance of relief and local relief works in time of famine or scarcity;

(*l*) educational objects other than those set forth in clause (*d*) of this section;

(*m*) the construction, management and maintenance of light-railways and tramways;

[5][(*mm*) the construction, maintenance, management, organisation or purchase of telephone lines, or the guaranteeing of payment of interest on money expended for the construction of a telephone line, provided however, that, when the line extends beyond the limits of the area subject to the authority of the local board, the previous sanction of the Commissioner is necessary.]

(*n*) any other local works or measures likely to promote the health, safety, comfort or convenience of the public; and

(*o*) with the previous concurrence of the Collector, any public reception, ceremony, entertainment or exhibition.

[6][**50A.** It shall be lawful for a district local board to undertake upon such terms and conditions as may be agreed upon, the construction, maintenance or repair of any work or the management of any institution on behalf of [7][the Central or the Provincial Government] or any other local authority or the Court of Wards.] Power of district local board to construct other works and manage other institutions.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "servant of the Government", *ibid.*

[3] These words were added by Bom. 5 of 1928, s. 2.

[4] The words "Government servant" were omitted by the Adaptation of Indian Laws Order in Council.

[5] Clause (*mm*) was inserted by Bom. 10 of 1927, s. 6.

[6] Section 50A was inserted by Bom. 16 of 1935, s. 3.

[7] The words "the Central or the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Relative duties of taluka and district local boards.

51. (*1*) Subject to the control of the district local board and, as regards educational matters, to the provisions of proviso (*b*) to section 80, each taluka local board shall, within the area subject to its authority, have the control and administration of all purely local roads, works and buildings maintained at its cost and also of all local services and institutions except such as the district local board thinks fit to take under its own direct control and administration.

(*2*) In respect of roads, works, buildings, services and institutions in the control and administration of the district local board, each taluka local board shall, if the district local board so desires, be the agent of the district local board and, as such agent, shall exercise such authority and perform such duties as the district local board may from time to time in writing delegate to it.

CHAPTER V—Sanitary and other Powers.

Power to enter and inspect, etc., buildings.

52. The president of the district local board, or any person authorized by the said board in this behalf, may at any time between sunrise and sunset, on giving notice in the manner hereinafter provided, enter into and inspect all buildings and lands, and by written notice direct that all or any part thereof shall be cleansed, cleared or otherwise put in a proper state for sanitary reasons.

Filthy buildings, etc.

53. Whoever, being the owner or occupier of any building or land, whether tentable or otherwise, suffers the same to be in a filthy or unwholesome state, or, in the opinion of the district local board, a nuisance to persons residing in the neighbourhood, or overgrown with prickly pear or rank and noisome vegetation, and who shall not, within a reasonable time after notice in writing from any person authorized by the district local board in this behalf to cleanse, clear or otherwise put the same in a proper state, have complied with the requisition contained in such notice, shall on conviction before a Magistrate be liable to a fine not exceeding rupees twenty-five and if the offence be a continuing one to a further fine not exceeding rupees five for every day during which the said offence is continued after conviction.

Powers and duties with regard to sources of water-supply.

54. The president of the district local board or any person authorized by the said board in this behalf may at any time by written notice require that the owner of, or any person who has control over, any well, stream, channel, tank, or other source of water-supply shall, whether it is private property or not,

(*a*) if the water is used for drinking—

(*i*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*ii*) within a reasonable time to be specified in the notice, cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*iii*) in such manner as the board directs, protect any such source of water supply from pollution by surface drainage, or

(*iv*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, which not being a stream in its natural flow, is in the opinion of the board unfit for drinking, or

(*v*) if notwithstanding any such notice under sub-clause (*iv*) such use continues and cannot in the opinion of the board be otherwise prevented, close, either temporarily or permanently, or fill up or enclose or fence in such manner as the board considers sufficient to prevent such use, such source of water-supply, or

(*vi*) drain off or otherwise remove from any such source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto any stagnant water which the board considers it injurious to health or offensive to the neighbourhood ;

(*b*) within twenty-four hours of such notice, repair, protect or enclose in such manner as the board may direct or approve, any such source of water-supply, whether used for drinking puposes or not, other than a stream in its natural flow, is for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the board dangerous to the health or safety of the public or of any persons having occasion to use or to pass or approach the same.

Remedy on non-compliance with directions issued.

55. If the owner or the person having control as aforesaid fails or neglects to comply with any such requisition within the time required by or under the provisions of section 54 the district local board may, and, if in the opinion of the president immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice, and all the expenses incurred thereon shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII :

Provided that in the case of any well or private stream or any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by such owner or person having control may, if the district local board so directs, be paid from the portion of the local fund at the disposal of such board.

Power to set apart public springs, etc., for certain purposes.

56. (*1*) The district local board may by public notice, which shall be put up at the spring, tank, well or other place concerned and otherwise as required by this Act, set apart public springs, tanks, wells and other places and parts of public water courses for drinking purposes or for bathing or for washing clothes or animals or any other purpose calculated to promote the health, cleanliness, comfort or convenience of the inhabitants ; and with the consent of the owners, may also set aside any private springs, tanks, wells or other places for any of the aforesaid purposes.

Power to prohibit use of water from certain sources.

(*2*) The district local board may, during epidemics, on receipt of a certificate from any medical officer in the employ of the board or of the [1][Crown] stating that such action is desirable, summarily by notice prohibit the use of water from any source to which the public have access. Such notice shall be served by putting up a copy thereof near the source of water-supply or by beat of drum, stating the number of days during which such prohibition shall last. The district local board may extend or modify the notice from time to time without the production of a further certificate.

Penalty for using places set apart for other purposes.

57. Whoever—

(*a*) bathes in or defiles the water in any place set apart for drinking purposes by the board, or in the case of private property by the owner thereof, or

(*b*) deposits any offensive or deleterious matter in the dry bed of any place set apart as aforesaid for drinking purposes, or

(*c*) washes clothing in any place set apart as aforesaid for drinking or bathing, or

[1] The word "Crown" was substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*d*) washes any animal or any cooking utensils or wool, skins or other foul or offensive substance, or deposits any offensive or deleterious matter in any place set apart as aforesaid for drinking purposes or bathing or washing clothes, or

(*e*) allows the water from a sink, sewer, drain, engine or boiler, or any other offensive matter belonging to him or flowing from any building or land belonging to or occupied by him, to pass into any place set apart as aforesaid for drinking purposes or for bathing or for washing clothes, shall, on conviction before a Magistrate be liable to a fine not exceeding rupees fifty, and if the offence be a continuing one, to a further fine not exceeding rupees ten for every day during which the said offence is continued after conviction.

Abatement of nuisance from foul water.

58. When any pool, ditch, tank, pound, well, hole or any waste or stagnant water, or any channel or receptacle of foul water or other offensive or injurious matter, whether the same be within any private enclosure or otherwise, shall appear to the district local board to be likely to prove injurious to the health of the inhabitants or offensive to the neighbourhood, the district local board may by written notice require the owner of the same to cleanse, fill up, drain off or remove the same, or to take such measures as shall in its opinion, be necessary to abate or remove the nuisance.

Closing of places for the disposal of the dead.

59. (*1*) If the district local board is of opinion that any place in the district which is used for the disposal of the dead is in such a state as to be, or to be likely to become injurious to health, it may submit its opinion, with reasons therefor to the Commissioner. The Commissioner may thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the notification.

(*2*) A copy of the said notification with a translation thereof in the vernacular of the district, shall be published in the local newspapers, if any, and shall be posted up at the district local board office and in one or more conspicuous spots on or near the place to which it relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place after the date specified in the said notification for closure thereof or buries any corpse in any unoccupied [1][Crown] land not set aside for the burial of the dead under the provisions of any law for the time being in force or by established usage, shall on conviction before a Magistrate be liable to a fine not exceeding rupees one hundred.

President, etc., to have power of entry for inspection into buildings, etc., where infectious disease exists.

60. (*1*) The president of any district local board or any person authorized by the board in this behalf, may enter at any time, after reasonable notice, into any building or premises in which any dangerous infectious disease is reputed or suspected to exist for the purpose of inspecting such building or premises.

Inspection to be made between sunrise and sunset.

(*2*) No such inspection shall be made except between sunrise and sunset.

[1] The word "Crown" was substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*3*) If the district local board is of opinion that the cleansing or disinfecting of a building or premises or of a part thereof, or of any articles therein likely to retain infection, would tend to prevent or check the spread of any dangerous infectious disease, it may by notice require the owner or occupier to cleanse or disinfect the same within a time to be specified in such notice: provided that if the board considers that immediate action is necessary or that the owner or occupier is, by reason of poverty or otherwise, unable effectually to comply with its requisition, the board may itself cause such building or premises or articles to be cleansed or disinfected, and for this purpose may cause such articles to be removed from such building or premises; and the expenses incurred by the board under this sub-section shall be recoverable from the said owner or occupier unless he was, by reason of poverty, unable effectually to comply with its requisition. Disinfection of buildings, etc.

61. (*1*) The district local board shall, from time to time, notify places at which articles of clothing or bedding or other articles which have been exposed to infection from any dangerous infectious disease may be washed or disinfected. District local board to notify places for washing and disinfecting articles, exposed to infection.

(*2*) The district local board may direct the destruction of clothing, bedding or other articles likely to retain such infection, and shall on demand give compensation for the articles destroyed. Infected articles may be destroyed

(*3*) Whoever washes such clothing or bedding or other articles at any place other than those set apart for such purposes under sub-section (*1*), shall on conviction before a Magistrate be liable to a fine not exceeding rupees fifty. Penalty.

[1][**61A.** (*1*) Whoever on any part of a public road, land or building, after it has vested in, or has become the property of, a local board, shall build, or set up, any wall or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or shall deposit, or cause to be placed or deposited, any box, bale, package or merchandise or any other thing on any part of any such road, land or building, or in, or over, or upon, any open drain, gutter, sewer or aqueduct in such road, land or building, shall be punished with fine which may extend to twenty-five rupees. Obstructions and encroachments upon public roads, land or building.

(*2*) The local board shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII:

Provided that, before proceeding to remove any such obstruction or encroachment, the local board shall by written notice call upon the person who has caused such obstruction or encroachment to remove it within a reasonable time to be specified in the notice, or to show cause why the same should not be removed.

(*3*) Nothing contained in this section shall prevent a local board from allowing any temporary occupation of or erections on any public road, which vests in it or is its property, on occasions of festivals and ceremonies, or for the piling of fuel on any part of such road for not more than [2][fifteen days] and in such manner as not to inconvenience the public or any individual.

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[1] Section 61A was inserted by Bom. 10 of 1927, s. 7.

[2] The words "fifteen days" were substituted for the words "a week" by Bom. 16 of 1933, s. 3 (*a*).

[1][(*4*) Notwithstanding anything contained in section 47, it shall be competent to a local board to lease or to permit a temporary use of land forming part of a public road when such land is not, in the opinion of the local board, required for a public road or for any other of the purposes of this Act, for a period not exceeding seven years :

Provided that, if the lease or permit does not exceed one year, the previous sanction of the Collector, and if the lease or permit exceeds one year but does not exceed seven years, the previous sanction of the Commissioner, shall have been obtained to such lease or permit].

Powers of inspection of weights and measures, etc.

[2][**61B.** The president, vice-president, or any councillor or officer authorized by the local board in this behalf may at all reasonable times enter into any place [3][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for the purpose of trade and inspect such weights or measures or weighing or measuring instruments.] Bom. XV of 1932.

District local board empowered to make by-laws.

62. (*1*) The district local board may, from time to time, with the sanction of the Commissioner, make by-laws and cancel or alter the same :—

(*a*) for the general or special regulation, control or prohibition of the use of markets, dairies, creameries, grainaries, grainshops, slaughter houses, cart-stands burial and burning grounds, offensive trades, and all matters connected with conservancy ;

(*b*) for regulating the use of public roads and the traffic thereon ; and for securing cleanliness, safety and order in respect of the same ; and

(*c*) for carrying out all the purposes of this Act,

and may impose fines and penalties for the infringement of such by-laws.

Infringement of by-laws.

(*2*) No by-law shall be repugnant to any law in force, and no fine for any one infringement shall exceed rupees fifty : provided that in the case of a continuing infringement the offender may by any by-law be made liable to further fine not exceeding rupees ten for every day during which such infringement is continued after conviction.

Confirmation of by-laws.

(*3*) No by-law or cancellation or alteration of a by-law shall have effect until the same has been approved and confirmed by [4][the Provincial Government.]

By-laws to have the force of law.

(*4*) All by-laws when they have been duly confirmed shall have the force of law.

Service of notices, etc., addressed to individuals.

63. The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name addressed shall, in all cases not otherwise specially provided for in this Act, be effected by a district local board officer or servant or other person authorized by the district local board in this behalf, or on such terms as may be agreed upon, by any officer or [5][servant of the Crown]—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed ; or

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[1] This sub-section was added by Bom. 16 of 1933, s. 3 (*b*).

[2] This section was inserted by Bom. 15 of 1932, Second Schedule, Pt. I.

[3] These words, figures and brackets were inserted by Bom. 9 of 1935, s. 6 (*1*).

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "servant of the Crown" were substituted for the words "servant of the Government", *ibid.*

(*b*) if such person is not found by leaving the notice or bill at his last known place of abode, if within the district, or by giving or tendering the notice or bill to some adult male member or servant of his family ; or

(*c*) if such person does not reside within the district, and his address elsewhere is known to the president or other person directing the issue of the notice or bill, then by forwarding the notice or bill to such person by registered post under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

Service of notices on owners or occupiers of buildings and lands.

64. When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act, shall be effected either—

(*a*) by giving or tendering the notice to the owner or occupier, or if there be more owners or occupiers than one, to any one of them ; or

(*b*) if no such owner or occupier be found, then by giving or tendering the notice to some adult male member or servant of the family of any such owner or occupier as aforesaid ; or

(*c*) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

Public and general notices how to be published.

65. Every notice which this Act requires or empowers a district local board to give or to serve either as a public notice, or generally, or by provisions which do not expressly require notice to be given to individuals therein specified, shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the district local board office during such period and in such other public buildings and places, or is published in such local papers or in such other manner as the district local board in by-laws in this behalf directs.

Defective form not to invalidate notice.

66. (*1*) No notice or bill shall be invalid for defect of form.

Execution of acts required to be done by any notice.

(*2*) When any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same.

(*3*) In the event of non-compliance with the terms of the notice the district local board may take such action or such steps as may be necessary for the doing of the act thereby required to be done, and all the expenses thereby incurred by the district local board shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 69.

Punishment for disobedience of orders and notices not punishable under any other section.

67. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a district local board under any power conferred by this Chapter, or fails to comply with the conditions subject to which any permission was given to him by the district local board under any power so conferred, shall, on conviction before a Magistrate if the disobedience or failure is not an offence punishable under any other section, be liable to a fine not exceeding rupees fifty and to a further fine not exceeding rupees five for every day during which the said disobedience or failure continues after conviction :

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was a reasonable time within the meaning of this Act.

District local board in default of owner or occupier may execute works and recover expenses.

68. (*1*) Whenever, under the provisions of this Act, any work is required to be executed by the owner or occupier of any building, or land, and default is made in the execution of such work, the district local board, whether any penalty is or is not provided for such default, may cause such work to be executed; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the district local board may seem fit.

Power to levy charges on occupier, who may deduct the sum from his rent.

(*2*) If the defaulter be the owner of the building or land, the district local board may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being, from the person who then, or any time thereafter, occupies the building or land under such owner; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier; and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable at the time of the demand made upon him, or which at any time after such demand and notice not to pay the same to his landlord, has accrued and become payable by such occupier, unless he neglet or refuse, upon application made to him for that purpose by the district local board, truly to disclose the amount of his rent, and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier:

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of the expense of any such works as aforesaid.

Expenses or costs how determined and recovered.

69. If a dispute arises with respect to any expenses or costs which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same, shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the district local board, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

District local board may prosecute.

70. (*1*) The district local board may direct any prosecution for any public nuisance whatever, and may order proceedings to be taken for the recovery of any penalties, and for the punishment of any persons offending against the provisions of this Act, or of any by-law thereunder, and may order the expenses of such prosecutions or other proceedings to be paid out of the local fund:

Provided that no prosecution for an offence under this Act or of any by-law thereunder shall be instituted except within six months next after the commission of such offence.

(*2*) Any prosecution under this Act or under any by-law thereunder may, save as therein otherwise provided, be instituted before any Magistrate, and every fine or penalty imposed under or by virtue of this Act or any by-law thereunder, and also all claims to compensation or other expenses for the recovery of which no special provision is otherwise made in this Act, may be recovered on application to such Magistrate, by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimed. Jurisdiction of Magistrate.

71. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of any local board shall have been caused by such person, he shall be liable to make good such damage as well as to pay such penalty, and the value of he damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted, and on non-payment of such value on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly. Damage to any local board property how made good.

72. [1][In lieu of any process of recovery allowed by or under this Act or in case of failure to realise by such process] the whole or any part of any amount recoverable under the provisions of Chapter VIII or of any compensation, expenses, charges or damages awarded under this Act, the district local board may sue in any Court of competent jurisdiction the person liable to pay the same, as also any other person who may have in any way caused any injury to any property, rights or privileges of the district local board. Alternative procedure by suit.

73. (*1*) Any police officer may arrest any person committing in his presence any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person be unknown to him, and if he decline to give his name and address, or if the police officer have reason to doubt the accuracy of such name and address if given, and such person may be detained at the station house until his name and address shall be correctly ascertained: Powers of police officers.

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(*2*) It shall also be the duty of all police officers to give immediate information to the president or an officer of the local board of the commission of any offence against the provisions of this Act or of any by-law thereunder, and to assist all local board officers and servants in the exercise of their lawful authority.

CHAPTER VI—REVENUE AND EXPENDITURE.

74. (*1*) There shall be in each district a fund which shall be called the local fund. Local fund, its custody and investment.

[1] These words were substituted for the original by Bom. 10 of 1949, s. 7.

(2) The local fund shall be kept in the Government treasury or in the bank to which the Government treasury business has been made over or in such other bank or co-operative society registered or deemed to be registered under the Co-operative Societies Act, 1912[1] as may be approved by [2][the Provincial Government] : II of 1912.

Provided that the district local board may from time to time, with the previous sanction of [2][the Provincial Government], [3]* * * * invest any portion of the fund in securities of the [4][Central Government] or such other securities as the [5][Provincial Government] may approve in this behalf, and vary such investments for others of the like nature ; and the income resulting from the securities and proceeds of the sale of the same shall be credited to the local fund.

Income of local fund.

75. The following shall form part of, or be paid into, the local fund :—

(*a*) the balance of the local fund of the district at the commencement of this Act ;

(*b*) the net proceeds (after deducting the expenses of assessment and collection) of any residue of the cesses payable in the district under the [6]Sind Local Funds Act, 1865, and [6]Bombay Local Funds Act, 1869 ; Bom. VIII of 1865.

(*c*) the net proceeds (after deducting the expenses of assessment and collection) of the cesses in the district authorized by sections 93 and 95 ; Bom. III of 1869.

[7](*d*) * * * * * *

(*e*) all rents and profits accruing from property (including ferries) [8]* * * * * vested in a local board ;

(*f*) the net proceeds (after deducting the expenses of collection) of all tolls and leases of tolls on roads and bridges vested in the local board which are levied in the district under the Tolls on Roads and Bridges Act, 1875 ; Bom. III of 1875.

[7](*g*) * * * * * *

[7](*h*) * * * * * *

[7](*i*) * * * * * *

(*j*) all sums received by a local board in the execution of, or from taxation under, this Act, and the interest on and the sale proceeds of any securities held by such board ;

(*k*) all sums contributed by private persons ;

(*l*) the proceeds of any fisheries vesting in a local board ;

(*m*) the receipts on account of charities and trusts placed under the management of a local board ; and

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[1] *See* now the Bombay Co-operative Societies Act, 1925 (Bom. 7 of 1925.)

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "and subject to any general or special orders of the Governor-General in Council" were omitted, *ibid.*

[4] The words "Central Government" were substituted for the words "Government of India", *id.*

[5] The words "Provincial Government" were substituted for the words "Governor-General in Council," *ibid.*

[6] These Acts have been repealed by Bom. 6 of 1923, s. 2.

[7] Clauses (*d*), (*g*), (*h*) and (*i*) were omitted by the Adaptation of Indian Laws Order in Council.

[8] The words "placed by the Government under the management of a local board or" were omitted, *id.*

(*n*) all grants [1]* * * made by [2][the Provincial Government]:

Provided that when a public ferry, road or bridge [3][vested in one or more than one local board] is partly in one district and partly in another, the Commissioner, if the districts are in one division, and [2][the Provincial Government] if they are in different divisions, may assign to the local fund of each district such proportion of the net proceeds of such ferry, or of the toll, or of the lease of the tolls levied on such road or bridge, as he or it shall think fit:

Provided further that if any road in a district is vested partly in local board and partly in [2][the Provincial Government], the Collector may assign to the local fund of the district such proportion of the net proceeds of the toll or of the lease of the toll levied on such road as he shall think fit:

[4][Provided also that a local board may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a seprate heading in the local board accounts any portion of the local fund set apart by it for any special purpose and shall credit to a separate heading any grant or donation received by it for any special purpose. Any grant or donation so credited by it shall be applied exclusively to the special purpose for which the same was received.]

Local fund by what boards to be expended.

76. (*1*) The local fund of a district shall be available for expenditure by or under the direction of each taluka local board for the purposes of this Act as follows:—

(*a*) the balance available for expenditure by or under the direction of such board at the commencement of this Act; and

(*b*) the balance of the revenue described in clauses (*b*), (*c*), (*e*), [5]* * * (*j*) and (*k*) of section 75 accruing in the areas subject to the authority of such taluka local board, after the district local board shall have made provision therefrom for the portion to be devoted to educational purposes under section 80 and for such share of the charges payable by the district local board under sections 78 and 81 as the said board shall deem equitable.

(*2*) The remaining portion of the fund shall be available for expenditure by or under the direction of the district local board for the purposes of this Act.

Local fund where to be expended.

77. Expenditure by the local boards out of the local fund shall, save as otherwise provided by this Act, be made within the areas respectively subject to their authority only, but may, [6][where it does not exceed rupees two hundred with the sanction of the Collector and where it exceeds rupees two hundred] with the sanction of the Commissioner, be made outside that area for any of the purposes of this Act.

General charges to be defrayed by district local boards.

78. Every district local board shall, from the portion of the local fund at its disposal, defray—

(*a*) the salaries and other emoluments of all officers and servants maintained under section 119, and the pensions or other retiring allowances, if any, of such

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[1] The words "and assignments of revenue" were omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

[3] These words were inserted, *ibid.*

[4] This proviso was added by Bom. 4 of 1930, s. 3.

[5] The letters and brackets "(*g*), (*h*), (*i*)" were omitted by the Adaptation of Indian Laws Order in Council.

[6] These words were inserted by Bom. 16 of 1935, s. 4.

officers and servants, and the gratuities or compassionate allowances payable to the surviving relatives of such officers and servants; and such charges as may be agreed upon for the performance of any services for the board by any officer or [1][servant of the Crown];

(*b*) such sum as shall from time to time be fixed by [2][the Provincial Government] for the payment of the salaries [3][and allowances], of any officers or [1][servants of the Crown] employed by the board [4][and of such contributions for the pension of any such officers and servants as may be required, by the conditions of their service under the Crown, to be paid by them or on their behalf.]

Assignment of certain portions of revenue to municipalities or cantonment committees.

79. (*1*) Every district local board shall assign and cause to be paid out of the district local fund to every municipality and cantonment committee within the district for which such board has been established a sum equal to two-thirds of the amount of the revenue described in clauses (*b*) and (*c*) of section 75 levied from lands within the municipal district or cantonment subject to such municipality or committee, and may, in its discretion, assign and pay to every such municipality or committee, the whole of the said amount and such amount shall, at the request of the district local board, be ascertained and certified by the Collector.

(*2*) The sum assigned and paid shall be expended by the municipality or cantonment committee only for such purposes as are described in section 50, or for the remuneration of officers and servants whom it entertains for any of the said purposes; and a portion thereof equal to not less than one-third of the revenue described in sub-section (*1*) shall be expended by it for educational purposes only, as defined in clause (*d*) of section 50.

Expenditure for educational purposes to be made by district local boards only.

80. In every district the expenditure from the local fund for educational purposes as defined in clauses (*d*) and (*l*) of section 50 shall be made by the district local board only or by such authority as may be prescribed in any enactment for the time being in force, and for this purpose a sum equal to not less than one-third of the revenue described in clauses (*b*) and (*c*) of section 75 shall be set apart by the said board for expenditure by it on the said purposes (after deducting the sum or sums described in sub-section (*1*) of section 79):

Provided that—

(*a*) [5]* * * *

(*b*) the charges to be necessarily defrayed by each district local board or by such authority as aforesaid on account of primary education, the extent of the independent authority of district and taluka local boards in education and their relations generally with the Government Educational Department and with each other in educational matters shall be from time to time prescribed by rules made by [2][the Provincial Government] in this behalf under clause (*e*) of section 133.

The provisions of proviso (*b*) of this section shall apply also to municipalities and cantonment committees in respect of the sums to be expended by them under section 79 for educational purposes.

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[1] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

[3] The words "and allowances" were substituted for the words "allowances and contributions for pension, according to the rules from time to time made by the Government," *ibid.*

[4] These words were inserted, *ibid.*

[5] Proviso (*a*) and the word "and" occurring at the end of the proviso were deleted by Bom. 16 of 1935, s. 5.

[1][**80A.** In any district notified by [2][the Provincial Government] in this behalf such specified portion of the net proceeds of the cess levied therein under section 95, as may be determined by [2][the Provincial Government], after consultation with the district local board concerned, shall be utilised towards the improvement of communications in irrigated tracts in that district.]

Cess on water-rate to be utilized towards improvement of communications in irrigated tracts.

[3][**80B.** Every district local board shall, out of the grant of land revenue made by the Provincial Government under section 118A, spend for the benefit of each taluka at least seventy-five per cent. of the amount of the grant of such revenue realised in the taluka.]

District local boards to spend 75 per cent. of grant of land revenue in talukas.

81. (*1*) The responsibility of district and taluka local boards, respectively, for expenditure in respect of matters other than education, shall be determined in accordance with the following provisions, namely :—

Provisions for determining by which boards expenditure should be incurred for other purposes.

(*a*) each local board shall be responsible for the maintenance of any building or other property which vests in it, and of any work which has been executed at its cost ;

(*b*) district local boards shall be responsible for the construction, maintenance and repair of the main roads and other means of through communication in the district vesting in them, for the maintenance of public vaccination and dispensaries and other similar local services and institutions of general benefit to the district, and for all matters in which two or more talukas are, or may be, interested ;

(*c*) taluka local boards shall be responsible for the construction and maintenance of all other roads and works which are purely local, and for all local services and institutions not maintained by the district local board ; and

(*d*) large works of the nature described in clause (*c*) of this section which are beyond the means at the disposal of a taluka local board may be undertaken by the district local board at its own cost, or the district local board may assist the taluka local board in undertaking the same by a grant-in-aid conditional upon a certain portion of the cost being contributed by the taluka local board or by private persons, or by both.

(*2*) If a difference of opinion arises between a district and a taluka local board as to which board is responsible for any charge, work, institution or service, the question shall be referred for the decision of the Commissioner, which shall be final.

82. (*1*) Subject to the provisions of sections 126 to 131 inclusive no payment shall be made from the Government treasury or by a bank or a co-operative society out of a local fund except upon a cheque or letter of credit signed by the president of the local board which requires such payment.

How the local fund shall be drawn against.

(*2*) Payment of any sum in excess of one hundred rupees shall be made by a local board by means of a cheque or letter of credit signed as aforesaid and not in any other way :

[4][Provided that in the case of expenditure from the local fund for educational purposes such payments shall be made in accordance with the provisions of the [5]Bombay Primary Education Act, 1923, and of the rules made thereunder.]

Bom. IV of 1923.

[1] This section was inserted by Bom. 22 of 1931, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This section was inserted by Bom. 10 of 1949, s. 8.

[4] This proviso was added by Bom. 10 of 1927, s. 8.

[5] See now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

Accounts to be kept in form prescribed by the Provincial Government.

83. Accounts of the receipts and expenditure of every local board shall be kept in such form as [1][the Provincial Government] may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, and shall be balanced annually on the last day of every financial or revenue year, as [2][the Provincial Government] may prescribe.

Publication of abstract of accounts annually.

84. An abstract of the accounts of every local board showing the amounts drawn from the local fund, the charges for establishment, and for all other expenses, the works undertaken, and the sums expended on each work, and the balance, if any, in hand, shall be forwarded by the president of the board every year, as soon as may be after the end of the year, in such form as [1][the Provincial Government] may from time to time by rule made in this behalf under clause (*f*) of section 133 prescribe, to the Collector or such other officer as the Collector nominates in this behalf and shall be published in the [3][*Official Gazette.*]

Return to be rendered to local boards of actual and estimated income of local funds.

85. (*1*) To enable local boards to prepare annual budget estimates, as hereinafter provided the Collector shall annually render to each taluka local board in his district, on or before such date and in such form as [1][the Provincial Government] from time to time directs, a return setting forth, for the taluka for which such board is established,—

(*a*) the actual receipts in the last complete official year,
(*b*) a revised estimate of the receipt in the current official year, and
(*c*) a first estimate of the probable receipts in the next following official year.
} from each of the sources from which the local fund is derived;

and to the district local board a similar return for the whole district.

(*2*) The district local board shall, on or before such date as [1][the Provincial Government] from time to time may direct, communicate to each taluka local board in the district the probable amount of the revenue described in clauses (*b*) and (*c*) of section 75, which will be at the disposal of such taluka local board in the next following official year, explaining the manner in which, with reference to clause (*b*) of sub-section (*1*) of section 76 the said amount has been fixed.

Preparation of annual budget estimates of income and expenditure.

86. (*1*) Every local board shall have prepared annually, on or before such date and in such form as [1][the Provincial Government] from time to time by rule made in this behalf under clause (*f*) of section 133 prescribes, a budget estimate of the income and expenditure of the board for the next official year.

Consideration and approval of budget estimates by the board.

(*2*) The board shall, or on as soon as may be after the said date, consider the budget estimate so prepared and approve the same with or without modification as it shall think fit.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*," *ibid.*

87. Every budget estimate, as approved by a taluka local board, shall be forthwith submitted to the district local board to which such taluka board is subordinate which, may— Taluka local boards' budget estimates to be submitted for sanction to the district local board.

(*a*) as often as it thinks fit, send back such estimate to the taluka local board for revision, or

(*b*) sanction any budget estimate, or revised budget estimate submitted to it, either as it stands, or subject to such modification as it deems expedient.

88. (*1*) Every local board may, at any time during the year for which any such budget estimate has been approved or sanctioned, cause a revised or supplementary budget estimate to be prepared. Every such revised or supplementary estimate shall be considered and approved by the local board and in the case of a taluka local board submitted to the district local board for sanction, in the same manner as if it were an original annual budget estimate. Revised or supplementary budget estimates may be made when necessary.

(*2*) Re-appropriation of funds in a budget estimate may be made from time to time subject to the same approval or sanction as is required for the budget estimate. Re-appropriation to be subject to approval or sanction like budget estimate.

89. (*1*) No budget estimate of a local board and no re-appropriation of a budget item shall be approved or sanctioned as aforesaid, unless— Budget estimates and re-appropriations when to be approved or sanctioned.

(*a*) provision is therein made for such board having at its credit at the end of the official year a balance of not less than five thousand rupees in the case of a district local board, and two hundred rupees in the case of a taluka local board;

(*b*) for every work [1]* of first construction [1]** there is attached to the budget estimate in which provision is made therefor a detailed estimate of the cost of such work, which has been approved by the board, and in the case of a road of which the cost is to exceed on an average three hundred rupees per mile or of any other work of which the total cost is to exceed three thousand rupees, plans and estimates have [2][either] been prepared or approved by the Government Executive Engineer of the district or by an engineer employed by the board and approved by [3][the Provincial Government]:

[4]Provided that [3][the Provincial Government] may, in any case, for special reasons direct that the provisions of this clause shall not apply.

(*2*) A copy of every budget estimate and a statement of every re-appropriation as finally approved or sanctioned under the foregoing provisions shall be forwarded by the president of each local board without delay to the Collector, or such officer as he nominates in this behalf. Annual budget estimates shall be so forwarded not later than the 18th February. Copies of budget estimates and re-appropriation statements to be sent to the Collector.

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[1] The words "whether" and "or repair" were deleted by Bom. 10 of 1927, s. 9 (*a*).

[2] The word "either" was inserted, *ibid.*, s. 9 (*b*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] This proviso was added by Bom. 10 of 1927, s. 9 (*c*).

Except on a pressing emergency no sum not provided for in a budget estimate to be expended.

90. (*1*) Save in case of pressing emergency, no sum shall be expended by, or on behalf of, any local board, unless such sum is included in some budget estimate at the time in force which has been approved or sanctioned as aforesaid.

(*2*) If any sum is so expended on a pressing emergency, the circumstances shall be forthwith communicated in writing by the president to the Collector (through the district local board, if the sum has been expended by a taluka local board) with an explanation of the way in which it is proposed by the local board to cover such extra expenditure.

Provision as to budget estimates in force when this Act comes into operation.

91. Every budget estimate prepared, approved or sanctioned by any local board under the [1]Bombay Local Boards Act, 1884, before the commencement of this Act, shall be deemed to have been duly prepared, approved or sanctioned under this Act. Bom. I of 1884.

Audit to be made periodically under the orders of the Provincial Government.

92. [2][(*1*) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the accounts of local boards may be examined and audited at such intervals, in such manner, and by such agency as [3][the Provincial Government], on the application of the local board or local boards concerned, directs.] Bom. XXV of 1930.

Auditor to have power to see all accounts, etc.

(*2*) Every auditor appointed under this section shall have access to the accounts and to all books, deeds, contracts, vouchers and all other documents and records in the possession, or under the control of the local board.

[4][(*3*) [5]* * * Every local board shall publish the report and audit notes with the replies thereto in its administrative report and in a local newspaper selected by the board. A copy of the report on every taluka local board shall also be sent to the district local board of the district.]

CHAPTER VII—TAXATION.

Levy of [8][three annas] cess on every rupee of land-revenue.

93. (*1*) [6][The Provincial Government] shall levy, on the conditions and in the manner hereinafter described, a cess [7][at the rate] of [8][three annas] on every rupee of—

(*a*) every sum payable to [6][the Provincial Government] as ordinary land-revenue except sums payable on account of any of the charges mentioned in Schedule A, and except sums payable on account of any charge which may be notified by [3][the Provincial Government] in this behalf,[9]

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[1] Bom. I of 1884 is repealed by this Act, s. 2.

[2] Sub-section (*1*) was substituted for the original sub-section by Bom. 25 of 1930, s. 16 (*2*).

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] Sub-section (*3*) was substituted for the original by Bom. 10 of 1927, s. 10.

[5] The words "The report of the auditor on each local board shall be sent to each board concerned and to the Collector and shall be published in the *Bombay Government Gazette*" were repealed by Bom. 10 of 1931, s. 4.

[6] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[7] These words were inserted by Bom. 10 of 1927, s. 11 (*i*) (*1*).

[8] The words "three annas" were substituted for the original words by Bom. 19 of 1948, s. 6.

[9] This comma was substituted for the word "and" by Bom. 10 of 1927, s. 11(*i*) (*2*), (*a*).

(*b*) every sum which would have been assessable on any land as land-revenue had there been no alienation of land-revenue [1][, and]

[2][(*c*) every sum which would have been assessable on any land as land-revenue had the land not been talukdari land] :

[3]* * * * *

[4][Provided [3]* that no cess shall be levied on sums below four annas, and that the amount of the cess shall, if not a multiple of three pies, be increased to the next highest multiple of three pies.]

(*2*) [5][The Provincial Government] may, on the application of the local board to which the cess is payable, suspend the collection of the cess or any portion thereof in any year in any area [6][subject to the authority of such local board].

Rules for assessment.

Bom. V of 1879.

94. [7](*1*) In the asessment of the said cess on villages alienated as defined in the Bombay Land Revenue Code, 1879,

(*a*) if the village has been surveyed and assessed in the manner laid down in the said Code and the rules made thereunder, the cess shall be fixed on the total amount of assessment of the village as fixed under the said Code or the rules made thereunder ;

Bom. II and VII of 1863.

(*b*) if the village has come under summary settlement under the Exemptions from Land Revenue (No. 1) Act, 1863, or the Exemptions from Land Revenue (No. 2) Act, 1863, and clause (*a*) of this section does not apply, the cess shall be fixed on the total annual assessment as settled for the purpose of summary settlement ; and

(*c*) in villages to which neither of clauses (*a*) or (*b*) of this section applies, the cess shall be fixed on the old or kammal rate recorded in the books of the Collector ; and if no such rate is recorded, or if the rate so recorded is objected to by the holder or proprietor of the alienated village, the cess may be fixed as agreed upon by the Collector [8][in agreement with the district local board who shall pass a special resolution to that effect] and such holder or proprietor, or, failing agreement, by a rough survey and assessment to be made by [9][the Provincial Government], the expense of such rough survey being borne half by the local board and half by the holder or proprietor of such village.

[10][(*2*) The provisions of sub-section (*1*) shall apply, so far as may be, to talukdari land.]

Levy of cess on water-rate.

Bom. VII of 1879.

95. [5][The Provincial Government] may levy a cess not exceeding [11][three annas] on every rupee of water-rate leviable under the provisions of the Bombay Irrigation Act, 1879.

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[1] The comma and the word "and" were substituted for the mark ":" by Bom. 10 of 1927, s. 11 (*i*) (*2*) (*b*).

[2] This clause was inserted, *ibid.*, s. 11 (*i*) (*2*) (*c*).

[3] The first proviso and the word "further" in the second proviso were deleted by Bom. 19 of 1948, s. 6.

[4] This proviso was inserted by Bom. 10 of 1927, s. 11 (*i*) (*4*).

[5] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[6] These words were substituted for the words "in which the Government has declared that famine exists" by Bom. 10 of 1927, s. 11 (*ii*).

[7] Original section 94 was renumbered as section 94 (*1*) by Bom. 5 of 1928, s. 3 (*a*).

[8] These words were inserted by Bom. 5 of 1928, s. 3 (*b*).

[9] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[10] New sub-section (*2*) was added to the original section 94 by Bom. 5 of 1928, s. 3 (*c*).

[11] These words were substituted for the words "two annas" by Bom. 19 of 1948, s. 7.

Manner of levying cess described in section 93.

96. The cess described in section 93 shall be levied, so far as may be, in the same manner, and under the same provisions of law, as the land revenue.

Manner of levying cess described in section 95.

97. The cess described in section 95 shall be levied, so far as may be, in the same manner, and under the same provisions of law, as water-rates payable to [1][the Provincial Government] under the Bombay Irrigation Act, 1879. Bom. VII of 1879.

Assistance to superior holders.

98. The provisions of law relative to the assistance to be given to superior holders and owners of water-courses for the recovery of their dues from their tenants and occupants under them, or from persons authorized to use their water-courses, shall be applicable to all superior holders, whether of alienated or unalienated land, and to all owners of water-courses in respect of the recovery of the said cesses from their tenants, occupants or persons authorized to use their water-courses, and shall be applicable also to occupants of land under the Bombay Land Revenue Code, 1879, for the recovery of the said cesses from their tenants or joint occupants. Bom. V of 1879.

Taxes which may be imposed by district local board.

99. Subject to any general or special orders which may be made by [1][the Provincial Government] in this behalf, every district local board may—

(*a*) after observing the preliminary procedure required by section 100, and

(*b*) with the sanction of the Commissioner, and subject to such modifications or conditions as under section 101 the Commissioner, in according such sanction, deems fit, impose, for the purposes of this Act, any tax [2][(other than a toll on [3][vehicles, animals or persons] save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] which, [4][the Provincial Legislature has power under the Government of India Act, 1935, to impose in the Province :] Bom. XXXIV of 1593.

Provided that no tax imposed as aforesaid other than a special sanitary cess or a water-rate, shall without the express [5][consent of the Government concerned] be leviable in respect of any building or part of any building, or of any vehicle, animal or other property, [6][belonging to the Crown] and used solely for public purposes, and not used or intended to be used for purposes of profit, and no toll [7][or octroi] shall be leviable for the passage of troops, the conveyance of Government stores or of any other Government property, the passage of Military or Police officers on duty, or the passage or conveyance of any person or property in the custody of such officers.

[8][Until provision to the contrary is made by the Central Legislature a district local board which was, immediately before the commencement of Part III of the Government of India Act, 1935, lawfully levying any tax under this section as then in force, may continue to levy that tax notwithstanding that it is not a tax which the Provincial Legislature has, under that Act, power to impose in the Province.]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words,figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.

[3] These words were substituted for the words "vehicles or animals" by Bom. 3 of 1940, s. 16, read with Bom. 40 of 1947, s. 2.

[4] These words were substituted for the words "under rules made under clause (*a*) of sub-section (*3*) of section 80A of the Government of India Act, a local authority may be authorised to impose by any law made by the local legislature without the previous sanction of the Governor General" by the Adaptation of Indian Laws Order in Council.

[5] These words were substituted for the words "consent of the Government", *ibid.*

[6] These words were substituted for the words "belonging to the Government", *ibid.*

[7] These words were inserted by Bom. 23 of 1938, s. 2.

[8] These words were inserted by the Adaptation of Indian Laws Order in Council.

100. (*1*) Every district local board shall, before imposing a tax, by resolution passed at a meeting of the board— Procedure of board preliminary to imposing tax.

(*a*) select a tax which may under section 99 be imposed ; and

(*b*) approve rules describing the tax selected ; and shall in such resolution and in such rules specify ;

(*c*) the class or classes of persons or of property, or of both, which the district local board desires to make liable, and any exemptions which it desires to make ;

(*d*) the amount for which, or the rate at which it is desired to make such classes liable ; and

(*e*) all other matters which [1][the Provincial Government] may require to be so specified.

(*2*) When such resolution has been passed, the district local board shall publish the rules with a notice in the form of Schedule B prefixed thereto.

(*3*) Any inhabitant of the district objecting to the imposition of the said tax, or to the amount or rate proposed or to the class of persons or porperty to be made liable thereto, or to any exemptions proposed, may within one month from the publication of the said notice send his objection in writing to the district local board, and the board shall take all such objections into consideration, or shall authorize a committee of its members to consider and report on them, and, unless it decides to abandon or modify the proposed tax in accordance with the said objections, shall submit them with its opinion thereon, together with the notice and rules as aforesaid, to the Commissioner.

101. The Commissioner may either refuse to sanction the rules submitted, or may return them to the district local board for further consideration, or, if no objection, or no objection which is in his opinion sufficient, was made to the proposed tax within one month from the publication of the said notice, may sanction the said rules either— Power to sanction, modify and impose conditions.

(*a*) without modification, or

(*b*) subject, as he deems fit,

(*i*) to such modifications not involving an increase of the amount to be imposed, or

(*ii*) to such conditions as to the application within the district to any purpose or purposes of this Act specified in such conditions of the whole or any part of the proceeds of such tax.

102. All rules sanctioned under section 101 with all modifications subject to which the sanction is given, shall be published by the district local board in the district for which they are made, together with a notice reciting the sanction and the date and serial number thereof ; and the tax as described in the rules so published shall, from a date which shall be specified in such notice and shall not be less than one month from the publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the district local board in accordance with the conditions, if any, subject to which under section 101 the sanction was given : Publication of sanctioned rules with notice.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Provided that—

(*a*) a tax leviable by the year—

(*i*) shall not come into force except on one of the following dates, *viz.*, the first day of April, the first day of July, the first day of October, or the first day of January, in any year, and

(*ii*) if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing;

(*b*) on or before the day on which a notice is issued under this section the district local board shall publish such further detailed rules as may be required, and as may have been approved by the Commissioner, pescribing the mode of levying and recovering the tax therein specified, and the dates on which it or the instalments, if any, thereof shall be payable; and

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctionedcept a fixed period only, the levy shall cease at the conclusion of that period, ex, for so far as regards any unpaid arrears which have become due during the period.

Collection of octroi by one public body on behalf of others.

[1][**102A.** Where any agreement such as is referred to in sub-section (*1A*) of section 46 has been entered into, such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf shall have the same power to establish such octroi limits and stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of the Act under which that body is constituted relating to octroi, shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of that body; and the collections made and the costs thereby incurred shall, subject to the provisions of section 46, be divided between the bodies entering into the agreement in such proportions as shall have been determined in the agreement.]

Octroi rules.

[2][**102B.** A district local board when submitting to the Commissioner for sanction a proposal for the imposition of octroi shall, after observing the requirements of sub-sections (*2*) and (*3*) of section 100, include in such rules provisions for fixing octroi limits and stations; providing for the exhibition of tables of octroi; regulating, subject to any general or special orders which the Provincial Government may make in this behalf, the system, under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage of animals or goods declared not to be intended for use or consumption within the area of the board; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made.]

Power of Provincial Government to suspend levy of objectionable taxes.

103. If it shall at any time appear to [3][the Provincial Government] on complaint made or otherwise, that any tax leviable by a district local board is unfair in its incidence, or that the levy thereof, or of any part thereof, is obnoxious to the interest of the general public or violates any promises made or undertakings incurred

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[1] This section was inserted by Bom. 14 of 1934, s. 3 (*2*).

[2] New section 102B was inserted by Bom. 23 of 1938, s. 3.

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

by [1][the Provincial Government], [1][the Provincial Government] may require the said district local board, within such period as it shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax, and if within the period so fixed, such requirement shall not be carried into effect to the satisfaction of [1][the Provincial Government], [1][the Provincial Government] may, by notification in the [2][*Official Gazette*], suspend the levy of such tax or of such part thereof, until such time as the objection thereto shall be removed.

CHAPTER VIII—COLLECTION OF TAXES.

Presentation of bill for amount of tax.

104. (*1*) When any amount which,

(*a*) by or under any provision of this Act, is declared to be recoverable in the manner provided by this Chapter, or

(*b*) not being payable on demand on account of [3]* * * a toll, is claimable as an amount or instalment on account of any tax [4](including an octroi) which is imposed in the district shall have become due,

the district local board shall, with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the sum claimed as due.

Contents of bill.

(*2*) Every such bill shall specify—

(*a*) the period for which, and

(*b*) the property, occupation or thing in respect of which, the sum is claimed, and shall also give notice of—

(*i*) the liability incurred in default of payment, and

(*ii*) the time within which an appeal may be preferred, as hereinafter provided, against such claim.

If bill not paid within fifteen days, notice of demand to issue.

(*3*) If the sum for which any bill has been presented as aforesaid is not paid into the local board office, or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the district local board may cause to be served upon the person liable for the payment of the said sum a notice of demand in the form of Schedule C, or to the like effect.

In what cases warrant may issue.

105. If the person liable for the payment of the said sum does not, within fifteen days from the service of such notice of demand, either—

(*a*) pay the sum demanded in the notice, or

(*b*) show cause to the satisfaction of the district local board, or of such officer as the board by rule may appoint in this behalf, why he should not pay the same, or

(*c*) prefer an appeal in accordance with the provisions of section 113 against the demand,

such sum with all costs of the recovery may be levied under a warrant caused to be issued by the district local board in the form of Schedule D or to the like effect by distress and sale of the moveable property of the defaulter.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "an octroi or" were deleted by Bom. 10 of 1949, s. 9.

[4] These words and brackets were inserted, *ibid.*

Warrant by whom to be signed.

106. Every warrant issued under section 105 shall be signed by the president of the district local board causing the same to be issued, or by an officer authorized by the district local board for this purpose or with the sanction of [1][the Provincial Government], by [2][a servant of the Crown].

Octroi on goods in vessels in river, creek, etc.

[3][**106A.** Where an officer of a district local board has reasons to suspect that any goods on which an octroi is leviable are on board a vessel and such vessel has entered any river, stream, creek or an arm of the sea, the limits of which shall be specified by the Provincial Government as being within the district for the purposes of this section, such officer may board the vessel and may take steps for the recovery of octroi due in the manner provided by this Act.]

To whom warrant should be addressed.

107. When the property is in the district, the warrant shall be addressed to an officer of a local board established in the district or with the sanction of [1][the Provincial Government], to [2][a servant of the Crown].

When the property is in another district, the warrant shall be addressed to the president of the district local board in such other district: provided that such president may endorse such warrant to a subordinate officer or with the sanction of [1][the Provincial Government] to [2][a servant of the Crown]. When the property is in the City of Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay: provided that the Registrar may endorse such warrant to a subordinate officer.

Power of entry under special order.

108. Any officer to whom a warrant is addressed by endorsement or otherwise may, if the warrant contains a special order authorizing him in this behalf, but not otherwise, break open at any time between sunrise and sunset any outer or inner door or window of a building in order to make the distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance, he cannot otherwise obtain admittance provided that such officer shall not enter or break open the door of any apartment appropriated for women until he has given three hours' notice of his intention and has given such women an opportunity to remove themselves.

Warrant how to be executed.

109. Such officer may distrain, wherever it may be found, any moveable property of the person named in the warrant as defaulter subject to the following conditions, exceptions and exemptions, namely:—

(*a*) the following property shall not be destrained—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans, and

(*iii*) when the defaulter is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable him to earn his livelihood;

(*b*) the distress shall not be excessive, that is to say, the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant, and if any articles have been distrained which, in the opinion of a person

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "a servant of the Crown" were substituted for the words "an officer of the Government", *ibid.*

[3] This section was inserted by Bom. 10 of 1949, s. 10.

authorized by or under section 106 to sign a warrant should not have been so distrained they shall forthwith be returned; and

(*c*) the officer shall on seizing the property forthwith make an inventory thereof, and shall before removing the same give to the person in possession thereof at the time of seizure a written notice in the form of Schedule E, that the said property will be sold as shall be specified in such notice:

Provided that if after the property is distrained and before it has been removed, the sum due by the defaulter together with all costs incidental to the notice, warrant and distress of the property is paid, the officer shall remove the distress.

110. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the president or officer by whom the warrant was signed shall at once give notice to the person in whose possession the property was when seized to the effect that it will be sold at once, and shall sell it accordingly unless the amount named in the warrant be forthwith paid. Sale of goods distrained.

(*2*) If not sold at once under sub-section (*1*), the property seized or a sufficient portion thereof may, unless the warrant is suspended by the person who signed it, or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress and detention of the property is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the district local board and the proceeds, or such part thereof as shall be requisite, shall be applied in discharge of the sum due and of all such incidental costs as aforesaid. Application of proceeds of sale.

(*3*) The surplus, if any, shall be forthwith credited to the local fund, notice of such credit being given at the same time to the person from whose possession the property was taken. But if the same be claimed by written application to the district local board within one year from the date of the notice, a refund thereof shall be made to such person. Any sum not claimed within one year from the date of such notice shall be the property of the district local board. Surplus, if any, how dealt with.

111. When the warrant is addressed outside the district, the authority issuing the warrant may by endorsement direct the president or registrar to whom the warrant is addressed to sell the property distrained, and in such case it shall be lawful for such president or registrar to sell the property and do all things incidental to the sale, and the foregoing provisions shall be modified accordingly. Such president or registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the authority by whom it was issued. Distraint and sale outside the district.

112. Fees for— Fees and costs chargeable.

(*a*) every notice issued under sub-section (*3*) of section 104,

(*b*) every distress made under section 109, and

(*c*) the costs of maintaining any livestock seized under the said section,

shall be chargeable at the rates respectively specified in such behalf in the rules of the district local board, and shall be included in the costs of recovery to be levied under section 105.

113. Appeals against any notice of demand issued under sub-section (*3*) of section 104 may be made to any Magistrate or Bench of Magistrates by whom under Appeals to Magistrates.

the directions of [1][the Provincial Government], or of the District Magistrate, such class of cases is to be tried. But no such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of;

(*b*) an application in writing, stating the ground on which the claim of the district local board is disputed, has been made to the district local board as follows, that is to say :

(*i*) in the case of a rate on buildings or lands, within a time to be notified in the notice given of the assessment or alteration thereof, according to which the bill is prepared, and

(*ii*) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 104, within fifteen days next after the presentation of such bill, and

(*c*) the amount claimed from the appellant has been deposited by him in the local board office.

Liability of lands, buildings, etc., for rates.

114. All sums due on account of any tax imposed in the form of a rate on lands or buildings or on both shall, subject to prior payment of land-revenue, if any, due thereupon, be a first charge upon the building or land in respect of which such tax is leviable, and upon the moveable property, if any, found within or upon such building or land, and belonging to the person liable for such tax :

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner, if it has been due from more than one year or for a period during which such occupier was not in occupation.

Suspension of power to recover by distress and sale.

115. [1][The Provincial Government] may at any time by notification suspend the operation of sections 105 to 110 inclusive in any district and from such date as shall be fixed in this behalf in the notification, every amount due on account of any tax therefore recoverable under the said sections, shall be recoverable on application to a Magistrate, in the manner provided in sub-section (*2*) of section 70 for the recovery of such fines as are therein referred to, and not otherwise.

Power to examine articles liable to octroi.

[2][**115A.** (*1*) A person bringing into or receiving from beyond the octroi limits of a district local board any animal or goods on which octroi is payable shall, when required by an officer authorized in this behalf by the district local board and so far as may be necessary for ascertaining the amount of tax chargeable—

(*a*) permit that officer to inspect, examine, weigh, and otherwise deal with such animal or goods ;

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods ; and

(*c*) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

Power to search where octroi is leviable.

(*2*) If any person bringing into or receiving from beyond the octroi limits of a district local board in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the board in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] New sections 115A, 115B and 115C were inserted by Bom. 23 of 1938, s. 5.

ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistrate or such officer of the board as the Provincial Government appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.]

Presentation of bills for octroi.

[1][**115B.** An officer demanding octroi by the authority of the district local board shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed, and the rate at which the tax is calculated.]

Penalty for evasion of octroi.

[1][**115C.** Where any animal or goods passing into the octroi limits of a district local board are liable to the payment of octroi, any person who, with the intention of defrauding the board, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of the said board any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the amount of such octroi or to fifty rupees whichever may be greater.]

[2][Power to seize animals, goods or vehicles on non-payment of octroi or toll.]

116. (*1*) In the case of the non-payment on demand of any [3][octroi or] toll leviable by a district local board the person appointed to collect [4][such octroi or toll may seize any animal or goods on which octroi is leviable or] vehicle or animal on which the toll is chargeable or any part of its burden which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the property seized a list of the property together with a written notice in the form of Schedule E that the said property will be sold as shall be specified in such notice.

Power to sell property seized at once.

(*2*) When any article seized is subject to speedy and natural decay, or when the expense of keeping it together with the amount of the [5][octroi or] toll chargeable is likely to exceed its value, the person seizing such article may inform the person in whose possession it was that it will be sold at once, and shall sell it or cause it to be sold accordingly unless the amount of [5][octroi or] toll demanded be forthwith paid.

Release of property on payment.

(*3*) If at any time before the sale has begun, the person whose property has been so seized tenders at the local board office the amount of all expenses incurred, and of [5][octroi or] toll payable, the property seized shall forthwith be released.

Sale.

(*4*) If no such tender is made, the property may be sold, and the proceeds of such sale shall be applied in payment of such [5][octroi or] toll and of the expenses incidental to the seizure, detention and sale.

Surplus how dealt with.

(*5*) The surplus, if any, of the sale proceeds shall be credited to the local fund and may, on application made to the district local board in writing within [6][three years] next after the sale, be paid to the person in whose possession the property was when seized, and, if no such application is made, shall be the property of the district local board.

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[1] New section 115A, 115B and 115C were inserted by Bom. 23 of 1938, s. 5.

[2] This marginal note was substituted for the original by Bom. 10 of 1949, s. 11.

[3] These words were inserted by Bom. 23 of 1938, s. 6 (*1*) (*a*).

[4] These words were substituted for the words "such toll may seize any", *ibid.*, s. 6 (*1*) (*b*).

[5] These words were inserted, *ibid.*, s. 6 (*2*).

[6] These words were substituted for the words "six months", *ibid.*, s. 6 (*3*).

Power to keep account current with person, firm or public body in lieu of levying octroi on introduction of goods.

[1][**116A.** The district local board, if it thinks fit, instead of requiring payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within the octroi limits of the board, may at any time direct than an account current shall be kept on behalf of the board of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the board or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of [2][this Chapter] be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable [2][thereunder].

Farming of tolls.

117. (*1*) The district local board may lease the levy of any toll that may be imposed under this Act by public auction or private contract:

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Person employed by the lessee of toll to have power of seizure.

(*2*) When any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, have the powers referred to in sub-sections (*1*) and (*2*) of section 116:

Provided that no article seized may be sold except under the orders of the district local board.

(*3*) Any sum due from a lessee to a local board in respect of any toll leased under this section may be recovered as an arrear of land-revenue.

Receipts to be given for all payments.

118. For all sums paid on account of any tax under this Act, a receipt stating the amount and the tax on account of which it has been paid shall be tendered by the person receiving the same.

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[3]CHAPTER VIIIA.

FINANCIAL ASSISTANCE TO DISTRICT LOCAL BOARDS.

Grant of 15 per cent. of land revenue to district local boards.

118A. The Provincial Government shall make every year a grant to every district local board equivalent in amount to fifteen per cent. of the ordinary land revenue including non-agricultural assessment realised during the previous revenue year from lands within the limits of the district excluding lands within municipal boroughs, municipal districts or villages within the meaning of the Bombay Village Panchayats Act, 1933.] Bom. VI of 1933.

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[1] New section 116A was inserted, by Bom. 23 of 1938, s. 7.

[2] These words were substituted for the original by Bom. 10 of 1949, s. 12.

[3] This Chapter and s. 118A were inserted by Bom. 10 of 1949, s. 13.

CHAPTER IX—OFFICERS AND SERVANTS OF LOCAL BOARDS.

119. (*1*) Every district local board may appoint and pay such officers and servants as it shall deem necessary and proper to maintain for the efficient execution of its duties and the duties of the taluka local boards in the district under this Act, and shall from time to time prepare and sanction a schedule of the staff to be so maintained, setting forth the designations and grades of the different officers and servants, the boards under which they are to be respectively employed, their respective duties and the amount and nature of the salaries, fees and allowances to be paid to each, and determining which of the said officers and servants are to be maintained permanently and which temporarily only.

Schedule of establishment to be prepared and sanctioned by district local boards; Chief Officer Health Officer; Engineer.

[1][Provided that when so required by the Provincial Government, a dearness allowance at such rates as may be fixed by the Provincial Government from time to time shall be paid to the officers and servants maintained by a district local board under sub-section (*1*).]

(*2*) Where any district local board appoints a Chief Officer or an Engineer and such appointment is approved by [2][the Provincial Government], [2][the Provincial Government] shall pay two-thirds of the salary of such Chief Officer or Engineer; and where any district local board appoints a Health Officer and such appointment is approved by [2][the Provincial Government], [2][the Provincial Government] shall pay two-thirds of the salary of such officer.

[3][(*3*) If at any time after a Chief Officer, Engineer or Health Officer has been appointed by a district local board and such appointment has been approved by [2][the Provincial Government] under sub-section (*2*), it shall appear to [2][the Provincial Government] after an enquiry held under section 128, that any of such officers is incapable of performing the duties of his office or has been guilty of any misconduct or neglect which renders his removal necessary in the public interest, [2][the Provincial Government] may, by a written notice require the district local board to remove such officer from office on or before a date specified in the notice. If the district local board fails to remove such officer from office on or before such date, the liability of [2][the Provincial Government] to pay any part of the salary of such officer shall, not withstanding anything contained in sub-section (*2*), cease from the said date.]

120. The district local board may, subject to any rule or order made by [2][the Provincial Government] in this behalf under clause (*g*) of section 133, delegate to its president [4][or Chief Officer] or to the president of any taluka local board subordinate to it the power of appointing any officer or servant on a salary not exceeding such limit as may be prescribed by [2][the Provincial Government] by rule in this behalf.

Delegation of power to engage officers and servants.

121. If in the opinion of the Commissioner the number of persons maintained by a district local board as officers or servants, or whom a district local board proposes to maintain, or the remuneration assigned by the board to those persons or to any particular person, is excessive, the said board shall, on the requirement of the Commissioner, reduce the number or remuneration of the said persons:

Power of Commissioner to prevent extravagance in establishments.

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[1] This proviso was added by Bom. 21 of 1945, s. 3 (*ii*), read with Bom. 19 of 1948, s. 2.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] Sub-section (*3*) was added by Bom. 30 of 1935, s. 3.

[4] The words "or Chief Officer" were inserted by Bom. 8 of 1934, s. 3.

Provided that the district local board may appeal against any such requirement to [1][the Provincial Government] whose decision shall be conclusive.

Punishment and dismissal of officers and servants.

122. The power of punishing or dismissing any officer or servant maintained by a district local board shall, subject to any regulation framed under section 123, and to any rule or order made by [1][the Provincial Government] in this behalf under clause (*g*) of section 133, vest in the said board :

Provided that, subject as aforesaid, the power of punishing or dismissing any such officer or servant not receiving salary beyond such limit as may be prescribed by [1][the Provincial Government] by rule made in this behalf under clause (*g*) of section 133 may be delegated by a district local board to its president [2][or to its Chief Officer], [3][Engineer or Health Officer] or to the president of any taluka local board subordinate to it.

District local boards to frame regulations ;

123. Every district local board may from time to time frame regulations,

fixing the amount of the security to be furnished ;

(*a*) fixing the amount and nature of the security to be furnished by any officer or servant maintained by the board from whom it may be deemed expedient to require security ;

regulating leave ;

(*b*) regulating the grant of leave to the permanent officers and servants maintained by the board ;

settling absentee allowances ;

(*c*) authorizing the payment of allowances to the said officers and servants or to certain of them, whilst absent on leave ;

fixing acting allowances ;

(*d*) determining the remuneration to be paid to the persons appointed to act for any such officers or servants during their absence on leave ;

regulating length of service ;

(*e*) regulating the period of service of all such officers and servants ;

regulating punishment and dismissal ;

[4][(*ee*) regulating, subject to any rule or order made by [1][the Provincial Government] in this behalf under clause (*g*) of section 133, the punishment and dismissal of such officers and servants ;]

fixing pensions, etc. ;

(*f*) determining the conditions under which such officers and servants or any of them, shall, on retirement, receive pensions, gratuities, or compassionate allowances; the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of such officers and servants and the amount of such pensions, gratuities or compassionate allowances ; and

fixing contributions to provident funds ;

(*g*) authorizing the payment of contributions at certain specified rates and subject to certain specified conditions to any pension or provident fund which may, with the approval of the said board, be established by the said officers and servants :

Provided that,

Proviso as to officers lent by Provincial Government;

(*i*) if an officer is lent to any local board by [1][the Provincial Government] or if an officer is employed partly in the service of [1][the Provincial Government] and partly in the service of a local board, such board shall contribute to his pension and leave allowances to such extent as may be required by rules made by

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 10 of 1927, s. 12.

[3] These words were inserted by Bom. 8 of 1934, s. 4.

[4] Clause (*ee*) was inserted, *ibid.*, s. 5.

[1][the Provincial Government] in this behalf under clause (*g*) of section 133 and shall not except with the assent of [1][the Provincial Government], dispense with his further services at any time without giving [1][the Provincial Government] six months' previous notice; and

(*ii*) no regulation made by any district local board under this section shall have effect unless and until it has been approved by [1][the Provincial Government].

and as to approval of regulations by the Provincial Government.

CHAPTER X—CONTROL.

124. (*1*) The Commissioner, Collector or any [2][servant of the Crown] authorized by general or special order of [1][the Provincial Government] may—

Powers of inspection and supervision.

(*a*) enter on and inspect any immovable property occupied by any local board or any institution under its control and management, or any work in progress under it or under its direction, or cause such immovable property, institution or work to be entered upon and inspected by any other person authorized by him in this behalf in writing; and

(*b*) call for any extract from the proceedings of any local board or any committee appointed by such board, and call for or inspect any book or document in the possession of or under the control of a local board.

(*2*) The Collector may—

(*a*) call for any return, statement, account or report which he may think fit to require a local board to furnish; and

(*b*) require a local board to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done by such board, or any information furnished by him which appears to him to necessitate the doing of a certain thing by such board and to make a written reply to him within a reasonable time stating its reasons for not desisting from doing, or for not doing, such thing.

125. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a local board, or the doing of anything which is about to be done, or is being done by or on behalf of a local board, is causing, or is likely to cause, injury or annoyance to the public, or to lead to a breach of the peace or is unlawful, he may, by order in writing, under his signature, suspend the execution or prohibit the doing thereof.

Collector's power of suspending execution of orders, etc., of local boards.

(*2*) When a Collector makes any order under sub-section (*1*), he shall forthwith forward to the Commissioner and to the local board affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order or to direct that it continue in force with or without modification, permanently or for such period as he thinks fit.

Collector's order to be reported to the Commissioner, who may confirm or modify it.

(*3*) The Commissioner shall forthwith submit to the [1][the Provincial Government] a report of every case occurring under this section, and [1][the Provincial Government] may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made.

Every case under this section to be reported to the Provincial Government for its final orders.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "Officer of the Government", *ibid.*

Extraordinary powers of Collector in case of emergency.

126. (*1*) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which a local board is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the local board.

(*2*) If the expense and remuneration are not so paid, the Collector may direct the officer in charge of the treasury or bank or society in which the local fund is kept or the whole or portion thereof is deposited or lent on interest, to pay the expense and remuneration, or as much thereof as is possible, from the balance of such fund in his hand.

(*3*) The Collector shall forthwith report to the Commissioner every case in which he uses the powers given to him by this section.

Power of the Provincial Government to provide for performance of duties in default of local board.

127. (*1*) When [1][the Provincial Government] is informed, on complaint made or otherwise that a local board has made default in performing any duty imposed on it by or under this Act, [2][or by or under any enactment for the time being in force] [1][the Provinial Government], if satisfied after due enquiry that the local board has been guilty of the alleged default, may fix a period for the performance of that duty :

Provided that no such period shall be fixed unless the local board has been given an opportunity to show cause why such order shall not be made.

(*2*) If that duty is not performed within the period so fixed, [1][the Provincial Government] may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the local board.

[3][(*3*) If the expense and remuneration are not so paid [1][the Provincial Government] may make an order directing the officer in charge of the treasury or bank or society in which the local fund is kept or the whole or portion thereof is deposited or lent on interest to pay such expense and remuneration from such moneys as may be standing to the credit of the local board in such treasury or bank or society or as may, from time to time, be received from or on behalf of the local board by way of deposit by such treasury or bank or society ; and such officer or bank or society shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such officer, bank or society from all liability to the local board in respect of any sum or sums so paid by him or it out of the moneys so received or standing to the credit of the local board in such treasury or bank or society.]

Inquiry into affairs of local board.

128. (*1*) [1][The Provincial Government] may from time to time cause inquiry to be made by any of its officers in regard to any local board, or matters concerning it, or any matters with respect to which the sanction, approval, consent or order of [1][the Provincial Government] is required by this Act.

(*2*) The officer holding such inquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the inquiry. V of 1908

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 5 of 1932, s. 3.

[3] This sub-section was substituted for original sub-section (*3*) by Bom. 23 of 1931, s. 3.

(*3*) [1][The Provincial Government] may make orders as to the costs of inquiries made under sub-section (*1*) and as to the parties by whom and the funds out of which they shall be paid, and such order may, on the application of [1][the Provincial Government] or of any person named therein, be executed as if it were a decree of a civil court.

129. (*1*) If in the opinion of [1][the Provincial Government] a local board is not competent to perform, or persistently makes default in the performance of the duties imposed on it by or under this Act, or otherwise by law, or exceeds or abuses its powers, [1][the Provincial Government] may by an order published, with the reasons for making it, in the [2][*Official Gazette*], declare the local board to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and either—

Power of the Provincial Government to dissolve or supersede local boards in case of incompetence, default, or abuse of powers.

(*a*) dissolve the board, or

(*b*) supersede it for a period to be specified in the order.

(*2*) When a local board is dissolved or superseded, all members of the board shall, as from the date of the order, vacate their offices as such members.

130. When a local board is dissolved, it shall be reconstituted [3]* * * as if the term of office of its members had expired; and a president and vice-president of the board shall be elected in the manner provided in this Act.

Reconstitution of local board after dissolution.

131. When a local board is superseded—

Consequences of supersession of local board.

(*a*) all powers and duties of the board may, during the period of supersession, be exercised and performed by such person or persons as [1][the Provincial Government] from time to time appoints in that behalf; such person or persons may appoint a person or a committee or committees and delegate to them all the powers which the local board could have delegated to a person or committee under this Act, and empower such person or committee or committees to perform the duties which a board could have delegated; and

(*b*) all property vested in the board shall, during the period of supersession, [4][vest in the Crown, for the purpose of the Province];

(*c*) when more persons than one are appointed to exercise the powers and perform the duties of the board, such persons may authorize one or more of their number to sue or be sued on their behalf.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "by such nominations and elections as may be necessary" were deleted by Bom. I of 1938, s. 6.

[4] The words "vest in the Crown for the purpose of the Province" were substituted for the words "vest in the Government" by the Adaptation of Indian Laws Order in Council.

Power of Provincial Government to dissolve and reconstitute local boards on the alteration of limits of districts or talukas.

[1]**[131A.** (*1*) When, on account of the constitution of a new district under the Bombay Land Revenue Code, 1879, [2][or under sub-section (*2*) of section 3A], or for any other reason, the limits of a district or taluka are, during the term of office of the members of the district or taluka local board, altered, [3][the Provincial Government] may, by order published in the [4][*Official Gazette*], dissolve such local board from a date specified in the order and direct a local board— Bom. V of 1879.

(*i*) to be reconstituted for the district or taluka of which the local board has been dissolved, or

(*ii*) to be established for a new district or taluka which has been constituted.

The members of the local board which has been dissolved shall vacate their offices from the date specified in the order.

(*2*) The district or taluka local board reconstituted or established under the provisions of sub-section (*1*) shall consist of members nominated by [5][the Provincial Government]. Such members shall, so far as may be practicable in the opinion of [5][the Provincial Government], be persons who were members of the local boards which have been dissolved under sub-section (*1*).

The president and vice-president of the local board so reconstituted or established shall be elected in the manner provided in this Act.

(*3*) The members of a local board reconstituted or established under the provisions of sub-section (*2*) shall hold office for such period, not exceeding one year, as [3][the Provincial Government] shall, by order in writing, specify.

(*4*) On the expiry of the period of office of the members of a local board under the provisions of sub-section (*3*), the local board of the district or taluka, as the case may be, shall be constituted in the manner provided in sections 5 and 6.]

Vesting of property, etc., of local boards which have been dissolved in reconstituted local boards.

[1]**[131B.** (*1*) When a local board has been dissolved and reconstituted or established under section 131A, so much of the local fund and other property vesting in the local board which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, a local board reconstituted or established under section 131A as the Commissioner may, by order in writing, direct.

(*2*) The rights and liabilities of the local board which has been dissolved in respect of civil and criminal proceedings, contracts, agreements, and other matter or thing arising in or relating to any part of the area subject to the authority of the local board reconstituted or established, shall vest in such local board.

(*3*) Any notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by the local board which has been dissolved, in respect to any part of the area subject to the authority of the local board which has been reconstituted or established, shall be deemed to have been made, issued or imposed by such local board, unless and until it is superseded by any notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by such local board.]

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[1] Sections 131A and 131B were inserted by Bom. 5 of 1932, s. 4.

[2] This portion was inserted by Bom. 19 of 1948, s. 8.

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[1][**131C.** (*1*) When a taluka local board is abolished, all property vesting in the said taluka local board shall vest in the district local board of the district and all rights and liabilities of the said taluka local board in respect of civil and criminal proceedings, contracts, agreements and other matter or thing arising in or relating to any area subject to the authority of the said taluka local board shall vest in the said district local board.

Vesting of property, etc., of a taluka local board which has ceased to exist in the district local board.

(*2*) Any notice, order, scheme, licence, permission or form made or issued by the said taluka local board shall be deemed to have been made or issued by the said district local board, unless and until it is superseded by any notice, order, scheme, licence, permission or form made or issued by the said district local board.]

132. In all matters connected with this Act, [2][the Provincial Government] and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.

Powers of the Provincial Government and of Commissioners over Collectors, etc.

CHAPTER XI—RULES.

133. [2][The Provincial Government] may by notification in the [3][*Official Gazette*] from time to time make rules or orders, consistent with this Act—

Purposes for which rules and orders may be made.

[4][(*a*) prescribing the number of members of each local board, the number and extent of the constituencies by which members of a local board shall be elected, the number of members to be elected by each constituency and the number of seats, if any, to be reserved for women, Muslims, Harijans, backward tribes and Indian Christians ;]

[5]* * * *

(*b*) determining the mode in which and the places at which, and the authorities, if any, under whose supervision elections of members of local boards shall be held, and the manner in which votes thereat shall be recorded, and how and by whom the results of such elections shall be declared ;

(*c*) prescribing such general conditions as shall seem fit as to the manner in which the business of local boards shall be conducted ;

[6][(*cc*) prescribing the number of members of a taluka committee, the manner of appointment of such members and regulating the exercise of powers and performance of duties by taluka committees ;]

(*d*) prescribing , for the purposes of clause (*i*) of section 50, the conditions under which, and the rates at which, payment of travelling expenses shall be made ;

(*e*) prescribing for the purposes of proviso (*b*) to section 80, the charges to be defrayed by each district local board on account of primary education, the extent of the independent authority of district and taluka local boards, in respect of education and their relations generally with [2][the Provincial Government], Educational Department and with each other in educational matters ;

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[1] Section 131C was inserted by Bom. 6 of 1935, s. 4.
[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.
[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*
[4] This clause was substituted for the original by Bom. 41 of 1947, s. 4 (*5*).
[5] Clauses (*a1*) and (*a2*) were deleted, *ibid.*
[6] Clause (*cc*) was inserted by Bom. 6 of 1935, s. 5.

(*f*) prescribing for the purposes of sections 83, 84 and sub-section (*1*) of section 86 the form in which the accounts of local boards shall be kept and the forms in which their abstracts of accounts and budget estimates shall be prepared and regulating the audit of local board accounts;

(*g*) regulating, for the purposes of sections [1][120 and 122 and clause (*ee*)] of and proviso (*i*) to section 123 the appointment, control, punishment and dismissal of the officers and servants of local boards and the extent of contributions to the pensions and leave allowances of Government officers employed by local boards; and

(*h*) generally, for the guidance of local boards and Government officers in all matters connected with the administration of this Act and not therein specially provided for:

Provided that rules made under this section shall be made after previous publication.

CHAPTER XII—MISCELLANEOUS.

Penalty for member, officer or servant of a local board having an interest in any contract, etc., with that board.

134. If any member of a local board or any officer or servant maintained by or employed under a local board, has directly or indirectly any share or interest in any work done by order of the board of which he is a member or by which he is maintained or under which he is employed or in any contract with or under such board, he shall be liable on conviction before a Magistrate to a fine not exceeding rupees five hundred:

Provided that no person shall be convicted under this section by reason only of such person—

(*a*) having a share in any joint stock company or a share or interest in any society registered or deemed to be registered under the [2]Co-operative Societies Act, 1912, which shall contract with or be employed by or on behalf of the local board, or — II of 1912.

(*b*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the local board may be inserted, or

(*c*) holding a debenture or being otherwise concerned in any loan raised by or on behalf of the local board, or

(*d*) being professionally engaged on behalf of the local board as a legal practitioner.

Members, etc., of boards to be public servants.

135. Every member of a local board and every officer and servant maintained by or employed under a district local board shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. — XLV of 1860.

Limitation of suits, etc.

[3]**[136.** (*1*) No suit shall be commenced against any local board, or against any officer or servant of a local board, or any person acting under the orders of a local board, for anything done, or purporting to have been done, in pursuance of this Act, without giving to such local board, officer, servant, or person one month's previous notice in writing of the intended suit and of the cause thereof, nor after three months from the date of the act complained of.

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[1] The figures, words, letters and brackets "120 and 122 and clause (*ee*)" were substituted for the figures "120, 122" by Bom. 8 of 1934, s. 6.

[2] This Act is repealed by Bom. 7 of 1925, s. 73, Schedule.

[3] This section was substituted for the original by Bom. 10 of 1949, s. 14.

(*2*) In the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.]

Acquisition of land.

[1][**137.** When any land is required for the purposes of this Act, [2][the Provincial Government] may, on the request of the local board requiring it, proceed to acquire it under the provisions of the [3]Land Acquisition Act, 1894, or other law for the time being in force, and, on payment by the local board of the compensation awarded under that Act and of all other charges incurred by [2][the Provincial Government] on account of the acquisition, the land shall vest in the local board.]

I of 1894.

SCHEDULE A.

(*See clause (a) of section 93.*)

1. Penalties and fines, including any charge imposed under section 148 of the Bombay Land Revenue Code, 1879, as penalty or interest in case of default, but not including any fine levied under section 65 of the same on grant of permission to use land for a purpose unconnected with agriculture.

Bom. V of 1879.

2. Occasional fixed payments, in commutation of all claims of [2][the Provincial Government], in respect of succession to or transfer of inams, payable on each succession or transfer.

3. Land revenue on service inam land, recovered from inferior village servants for periods of unauthorized absence from service; and all other such charges of assessment on inams and watans for broken periods and past years.

4. Fees for grazing when charged per head of cattle.

SCHEDULE B.

(*See sub-section (2) of section 100.*)

FORM OF NOTICE OF PROPOSED TAX.

Notice is hereby given to the inhabitants of the district of that the district local board desires to impose the tax, rate, toll, octroi, or cess (as the case may be) defined in the rules appended [in lieu of the tax known as the , which is published at page of the sanctioned rules*].

*To be inserted if the tax is to be substituted for any existing tax.

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[1] This section was substituted for the original by Bom. 10 of 1927, s. 13.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] See Central Acts.

Any inhabitant of the district objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the district local board.

RULES.

(The rules prepared by the district local board under sub-section (1) of section 100 are to be appended here.)

SCHEDULE C.

(See sub-section (3) of section 104.)

FORM OF NOTICE OF DEMAND.

To

A. B., residing at

Take notice that the district local board of

demands from

the sum of

due from on account of

(Here describe the property or other subject in respect of which the tax is leviable.)

leviable under rule No. for the period of commencing on the day of 19 and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the local board office at , and sufficient cause for non-payment is not shown to the satisfaction of the district local board, a warrant of distress will be issued for the recovery of the same with cost.

Dated this day of 19 .

(Signed)

By order of the district local board of

SCHEDULE D.

(See section 105.)

FORM OF WARRANT.

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas *A. B.* of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No. ;

*Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same : .

This is to command you to distrain, subject to the provisions of sections 108 and 109 of the Bombay Local Boards Act, 1923, the goods and chattels of the said *A. B.* to the amount of , being the amount due from him, as follows :—

	Rs.	a.	p.
On account of the said tax			
For service of notice			

and forthwith to certify to me together with this warrant all particulars of the goods seized by you thereunder.

Dated this day of 19 .

(Signed)

President.

(or as the case may be, *see* section 106.)

SCHEDULE E.

(*See clause (c) of section 109 and sub-section (1) of section 116.*)

Form of Inventory and Notice.

To

A. B.

residing at

Take notice that I have this day seized the goods and chattels specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand and that unless within five days from the day of the date of this notice you pay into the local board office at the said amount together with the cost of recovery, the said goods and chattels will be sold.

*Here describe the tax.

Dated this day of 19 .

(Signature of officer executing the warrant.)

Inventory.

(*Here state particulars of goods and chattels seized.*)

THE BOMBAY PREVENTION OF PROSTITUTION ACT, 1923.

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BOMBAY ACT No. XI OF 1923.[1]

[THE BOMBAY PREVENTION OF PROSTITUTION ACT, 1923.]

[*27th October 1923.*]

Amended by Bom. 9 of 1926.
,, ,, ,, 9 of 1927.
,, ,, ,, 12 of 1930.
,, ,, ,, 20 of 1931.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 7 of 1943.†
,, ,, ,, 17 of 1945.§
,, ,, ,, 26 of 1948.

An Act to consolidate and amend the Law relating to Prostitution in the City of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to prostitution in the City of Bombay and to provide for the extension thereof to other local areas in the Presidency of Bombay, and WHEREAS the previous sanction of the Governor-General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for passage of this Act; It is hereby enacted as follows :—

Short title.

1. (*1*) This Act may be called the Bombay Prevention of Prostitution Act, 1923.

Extent: Extension.

(*2*) This section, section 6, [2][section 8 (*3*)], section 9, [3][section 12 and section 13, sub-section (*1*)] extend to the whole of the Bombay Presidency. The rest of this Act shall extend in the first instance to the [4][Greater Bombay] but [5][the Provincial Government] may by notification extend to any other local area all or any of its provisions, with such verbal modifications as having regard to the principles of this Act may be necessary, for the purposes of such extension.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1923, Part V, pp. 22–23; for Report of Select Committee, see *ibid.*, pp. 28–29; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1923, Vol. X.

[2] The word, brackets and figures "section 8 (*3*)" were substituted for the original words, brackets and figures "sub-section 8 (*3*)" by Bom. 9 of 1926, s. 2.

[3] The words, brackets and figures "section 12 and section 13, sub-section (*1*)" were substituted for the original words and figures "and section 12", *ibid.*

[4] The words "Greater Bombay" were substituted for the words "City of Bombay" by Bom. 17 of 1945, section 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

† This Act was repealed and re-enacted by Bom. 26 of 1948, s. 2.

§ This Act was repealed and re-enacted and amendments made by section 9 and Schedule E were continued in force by Bom. 52 of 1947, s. 2.

Definition

***2.** In this Act, unless there is anything repugnant in the subject or context,—

[1]"brothel" means any house, room or place, or any part thereof, occupied or let or intended to be occupied or let as a single tenement, which is habitually used by more than one person for the purposes of prostitution [2][and includes—

(*1*) where any house, room or place, or any part thereof is divided into cubicles by any means including cloth or canvass curtains, or wooden, cement, corrugated iron, asbestos or brick partitions and such cubicles are used for the purposes of prostitution, every such cubicle used for such purposes whether by one or by more than one person;

(*2*) any room or place or any part thereof which is used for the purposes of prostitution, whether by one or by more than one person and the floor area of which is less than one hundred square feet and the cubic area of which is less than one thousand cubic feet;

(*3*) a self-contained flat used for the purposes of prostitution by more than one person, whether as independent tenants of different rooms or parts therein or otherwise.]

"place of public amusement" shall mean any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game or the means of carrying on the same, is provided, and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted; and shall include a race-course, circus, theatre, [3][cinema], music hall, billiard-room, bagatelle-room, gymnasium, [4][fencing school or dancing school];

"place of public entertainment" shall mean any place whether enclosed or or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place; and shall include a refreshment-room, eating-house, coffee-house, liquor-house, boarding-house, lodging-house, hotel, tavern or wine, beer, spirit, arrack, toddy, ganja, bhang or opium shop.

Soliciting.

***3.** Whoever in any street or public place or place of public resort or within sight of and in such manner as to be seen or heard from any street or public place, whether from within any house or building or not,—

(*a*) by words, gestures, wilful and indecent exposure of his person or otherwise attracts or endeavours to attract attention for the purpose of prostitution, [5][or carnal intercourse] [6][or any act of gross indecency] or

(*b*) solicits or molests any person or loiters for the purpose of prostitution, [5][or carnal intercourse] [6][or any act of gross indecency],

shall be punished with imprisonment for a term which may extend to [7][six months] or with fine which may extend to [8][five hundred rupees or with both].

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* The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

[1] This definition was substituted for the original definition by Bom. 12 of 1930, s. 2.
[2] This portion was added by Bom. 26 of 1948, s. 3 (*i*).
[3] This word was inserted, *ibid.*, s. 3 (*ii*) (*a*).
[4] These words were substituted for the original, *ibid.*, s. 3 (*ii*) (*b*).
[5] These words were inserted by Bom. 12 of 1930, s. 3.
[6] These words, were inserted by Bom. 26 of 1948, s. 4 (*i*).
[7] The words "six months" were substituted for the original words, *ibid.*, s. 4 (*ii*).
[8] These word

*4. Whoever being the keeper of any place of public amusement or entertainment [1][Turkish bath, massage establishment, beauty parlour, manicure room, pedicure room, knitting room, embroidery room or other similar place by whatever name or description known], knowingly permits prostitutes, or persons of notoriously bad character, for the purposes of their trade to meet or remain in such place, shall be punished with [2][imprisonment which may extend to three months, or with fine which may extend to one thousand rupees, or with both]. Prostitutes in places of public amusement.

*5. (*1*) Any [3][person not below the age of 16 years] who knowingly lives, wholly or in part, on the earnings of prostitution [4][of another person] shall be punished with imprisonment which may extend to [6][three] years, or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments. Living on the earnings of prostitution.

(*2*) Where [6][any] person is proved to be living with or to be habitually in the company of a prostitute or is proved to have exercised control, direction or influence over the movements of a prostitute in such a manner as to show that he is aiding, abetting or compelling her prostitution with any other person or generally, [7][or to be keeping or managing or assisting in the management of a brothel] it shall be presumed, until the contrary is proved, that he is knowingly living on the earnings of prostitution.. Presumption thereof.

6. Any person who procures or attempts to procure any woman or girl, whether with or without her consent, [8][for the purposes of prostitution], or who with intent that she may for the purposes of prostitution become the inmate of or frequent a brothel, persuades a woman or girl to leave her usual place of abode, shall be punished with imprisonment which may extend to three years or with fine which may extend to one thousand rupees, or with whipping, or with any two of those punishments. Procuration.

*7. Any person who brings or attempts to bring into the [9][Greater Bombay] any woman or girl [10][whether a prostitute or not, for the purposes of prostitution], shall be punished with imprisonment which may extend to three years or with fine which may extend to one thousand rupees, or with whipping or with any two of those punishments. Importing woman or girl for prostitution.

8. †(*1*) Whoever detains any woman or girl against her will,— Unlawful detention for prostitution:

(*a*) in any house, room or place in which the business of a common prostitute is carried on, or

(*b*) in or upon any premises with intent that she may have sexual intercourse with any man, other than her husband, whether any particular man or generally,

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* The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

[1] This portion was inserted, by Bom. 26 of 1948, s. 5.

[2] This portion was substituted for the original, *ibid.*

[3] These words were substituted for the words "male person" by Bom. 12 of 1930, s. 4 (*a*) (*i*).

[4] These words were inserted, *ibid.*, s. 4 (*a*) (*ii*).

[5] The word "three" was substituted for the word "two", *ibid.*, s. 4 (*a*) (*iii*).

[6] The word "any" was substituted for the words "a male", *ibid.*, s. 4 (*b*) (*i*).

[7] These words were inserted, *ibid.*, s. 4 (*b*) (*ii*).

[8] These words were substituted for the original by Bom. 26 of 1948, s. 6.

[9] The words "Greater Bombay" were substituted for the words "City of Bombay" by Bom. 17 of 1945, section 9 and Schedule E, read with Bom. 52 of 1947, s. 2, proviso.

[10] These words were substituted for the original by Bom. 26 of 1948, s. 7.

† The provisions of this sub-section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia, the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

shall be punished with imprisonment which may extend to two years, or with fine which may extend to one thousand rupees, or with whipping or with any two of those punishments.

presumption thereof:

*(2) Where a woman or girl is in any house, room or place in which the business of a common prostitute is carried on or is in or upon any premises for the purpose of having sexual intercourse referred to in sub-clause (1) (b), a person shall be deemed to detain such woman or girl in such house, room, place or in or upon such premises if, with intent to compel or induce her to remain there, such person withholds from her any wearing apparel, personal ornaments or other property belonging to her; or, where wearing apparel, personal ornaments, other personal property, or money has been lent or otherwise supplied to such woman or girl by or by the direction of such person, if such person threatens such woman or girl with legal proceedings if she takes away with her the wearing apparel or personal ornaments or other personal property so lent or supplied, or for recovery of such money.

bar of certain legal proceedings.

(3) No civil suit shall lie and no proceedings whether civil or criminal shall be taken, against any such woman or girl or against any person on her behalf, by or on behalf of any person occupying or managing or acting or assisting in the management of any such house, room, place or premises, for the recovery of any wearing apparel, personal ornaments or other property alleged to have been lent or supplied to or for such woman or girl or to have been pledged by or for her or for the recovery of any money alleged to be payable by or on behalf of such woman or girl.

No punishment of whipping under sections 5 to 8 for females.

[1]†[**8A.** Nothing in sections 5, 6, 7 and 8 shall render a female liable to be punished with whipping.]

Punishment for letting, or permitting use of premises as a brothel.

[1]‡[**8B.** Any person who—

(a) being the owner, tenant, lessee, occupier, or person in charge of any premises, knowingly permits such premises or any part thereof to be used as a brothel; or

(b) being the lessor or landlord of any premises, or the agent of such lessor or landlord, lets the same or any part thereof, with the knowledge that the same or any part thereof may be used as a brothel, or is wilfully a party to the continued use of such premises or any part thereof, as a brothel;

shall be punished with imprisonment, which may extend to three months, or with fine which may extend to [2][one thousand] rupees, or with both.]

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* The provisions of this sub-section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia; the Bombay Suburban District; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

† The provisions of this section have been extended to the Bombay Suburban District; the towns of Ahmedabad, Nasik, Dhulia, Ahmednagar and Belgaum; Poona Taluka; the (revenue) villages of Dapodi, Bopkhel, Kalas, Hadapsar and Kondna Khurd in the Haveli taluka of the Poona district; and the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusawal and Jalgaon.

‡ This section has been extended to the Bombay Suburban District, and the towns of Poona and Belgaum.

[1] Sections 8A, 8B, 8C and 8D were inserted by Bom. 12 of 1930, s. 5.

[2] These words were substituted for the original by Bom. 20 of 1948, s. 8.

[1]*[8C. Any person who, having been convicted of an offence punishable under section 8B, is convicted of a subsequent offence punishable under the said section, shall be punished with imprisonment, which may extend to one year, or with fine which may extend to one thousand rupees, or with both, and may, in addition to such punishment, be required by the Court to execute a bond, with sureties, for his good behaviour for such period, not exceeding three years, as the Court may direct, and, in default of executing such bond, may be imprisoned for a period not exceeding six months in addition to any punishment awarded in respect of his offence.] Punishment for subsequent offence.

[1]*[8D. (*1*) On conviction of the tenant, lessee or occupier of any offence under section 8B, clause (*a*), the convicting court shall give notice thereof in writing to the landlord or lessor, who shall then be entitled to require the person so convicted to assign the lease or other contract, under which the said premises are held by him to some person approved by the landlord or lessor, which approval shall not be unreasonably withheld, and, in the event of the person so convicted failing within three months to assign the lease or contract as aforesaid, the landlord or lessor shall be entitled to determine the lease or other contract, but without prejudice to the rights or remedies of any party to such lease or contract accruing before the date of such determination. Determination of tenancy of premises on conviction for permitting use as a brothel or for purposes of habitual prostitution.

(*2*) If the landlord or lessor determines a lease or contract of tenancy under the provisions of sub-section (*1*), the Court which has convicted the tenant, lessee or occupier may make an order for delivery of possession to the landlord or lessor within such time not being less than seven days as the Court may direct. The order shall be served on the person against whom it is made in the manner provided in the Code of Criminal Procedure, 1898, for the service of a summons, and if such person fails to comply with it, he shall be punished with imprisonment which may extend to one month or with fine which may extend to two hundred rupees or with both.

of 1898.

(*3*) If the landlord or lessor, after he has received notice in writing of such conviction, fails to exercise his rights under sub-section (*1*) and subsequently during the subsistence of the lease or contract any such offence is again committed in respect of the premises, the landlord or lessor shall be deemed to have abetted that offence, unless he proves that he had taken all reasonable steps to prevent the recurrence of the offence.

(*4*) Where a landlord or lessor determines a lease or other contract under this section, and subsequently grants another lease or enters into another contract of tenancy to or for the benefit of the same person, without causing to be inserted in such lease or contract all reasonable provisions for the prevention of a recurrence of any such offence, he shall be deemed to have failed to exercise his rights under the provisions of this section, and any such offence committed during the subsistence of the subsequent lease or contract shall be deemed, for the purposes of this section, to have been committed during the subsistence of the previous lease or contract.]

9. (*1*) The Commissioner of Police may at any time cause a notice to be served upon any person who occupies or manages or acts or assists in the management of, or upon any woman who resides in, uses or frequents, any house, room, or place [2][Removal of prostitutes.]

* This section has been extended to the Bombay Suburban District, and the towns of Poona and Belgaum.

[1] Sections 8A, 8B, 8C and 8D were inserted by Bom. 12 of 1930, s. 5.

[2] This marginal note was substituted for the original by Bom. 26 of 1948, s. 9.

in the [1][Greater Bombay] in which the business of a common prostitute is carried on, requiring such person or woman after a date to be mentioned in the notice, which shall not be less than seven days from the date of the notice, not to reside in, use or frequent any street or place specified in the notice; or directing such person or woman after a date to be mentioned and fixed as aforesaid to remove himself or herself to such place, whether within or without the [1][Greater Bombay] by such route or routes and within such time as the Commissioner of Police shall prescribe.

(*2*) If any person or woman so directed under sub-section (*1*) fails or refuses to remove himself or herself as directed within the time specified the Commissoner of Police may cause such person or woman to be arrested and removed in police custody to the place prescribed.

(*3*) No direction under the second alternative in sub-section (*1*) shall be made without the previous sanction of [2][the Provincial Government].

Penalties.

(*4*) Any person on whom a notice under this section shall have been served, disobeying the requisition therein contained, shall be punished with imprisonment for a term which may extend—

(*a*) in the case of a first offence to one month, and

(*b*) in the case of a second or subsequent offence, to three months.

(*5*) Whoever, within two years from the date of his removal under the provisions of this section, returns to any place within the [1][Greater Bombay], without the permission in writing of the Commissioner of Police, shall be punished with imprisonment for a term which may extend to two years or with fine or with both.

[3][(*6*) (*a*) Elsewhere than in the [1][Greater Bombay] all or any of the powers conferred by this section on the Commissioner of Police for the [1][Greater Bombay] may be exercised, as regards his district or part of his district, by the District Magistrate when empowered in that behalf by the [2][Provincial Government] by a notification in the [4][*Official Gazette*].

(*b*) Any person on whom a notice issued by the District Magistrate under the powers exercisable by him under clause (*a*) shall have been served, disobeying the requisition therein contained shall be liable to the punishment provided in sub-section (*4*).

(*c*) Whoever, within two years from the date of his removal under the provisions of this sub-section, returns to any place within the district from which he has been removed without the permission in writing of the District Magistrate shall be liable to the punishment provided in sub-section (*5*).]

Commissioner of Police to serve notice on landlord not to permit house, etc., to be used for prostitution.

[5][**9A.** (*1*) In any case where the Commissioner of Police causes a notice to be served in refernece to any house, room or place under sub-section (*1*) of section 9, he may, if he thinks fit, cause a notice to be served on the landlord or lessor or the agent of such landlord or lessor in charge of the said house, room or place, requiring him not to permit the said house, room or place or any other room in the same house to be used for carrying on the business of a common prostitute.

[1] The words "Greater Bombay" were substituted for the words "City of Bombay" by Bom. 17 of 1945, section 9 and Schedule E, read with Bom. 52 of 1947, s. 2., proviso.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] Sub-section (*6*) was added by Bom. 9 of 1926, s. 4.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[5] This section was inserted by Bom. 7 of 1943, s. 2, read with Bom. 26 of 1948, s. 2.

(*2*) Any person, who having received a second notice under sub-section (*1*) of this section knowingly permits the said house, room or place or any other room in the same house to be used for carrying on the business of a common prostitute after the date mentioned in the corresponding notice caused to be served in reference to the said house, room or place under sub-section (*1*) of section 9, shall be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both. Offence of so permitting after second notice.

(*3*) In all prosecutions under this section, when any house, room or place is proved to have been used for carrying on the business of a ommon prostitute it shall be presumed that it was knowingly permitted to be so used, unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when the house, room or place was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute.] Presumption as to knowledge.

[1][**9B.** (*1*) Whoever carries on the business of common prostitute in any premises— Common prostitute in vicinity of public places.

(*a*) which are adjacent or opposite to, or within a distance of one hundred and fifty yards of, any place of public religious worship, educational institution, public park, public playground, cinema, theatre or railway station, or on a thoroughfare over which tramcars run, or

(*b*) which are notified in this behalf, in Greater Bombay by the Commissioner of Police and elsewhere by the District Magistrate, in the manner prescribed by rules made by the Provincial Government,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.

(*2*) Any person who—

(*a*) being the owner, tenant, lessee, occupier or person in charge of any premises situate as described in clause (*a*) or notified under clause (*b*) of sub-section (*1*) knowingly permits the same or any part thereof to be used for carrying on the business of a common prostitute, or Punishment for permitting premises to be used for business of common prostitutes.

(*b*) being the lessor or landlord of any premises so situate or notified, or the agent of such lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for carrying on the business of a common prostitute, or is wilfully a party to the continued use of such premises or any part thereof for carrying on the business of a common prostitute,

shall be punished with imprisonment which may extend to three months, or with fine which may extend to five hundred rupees, or with both.

(*3*) In all prosecutions under this section against a lessor, landlord or the agent of a lessor or landlord, when any premises or part thereof is proved to have been used for carrying on the business of a common prostitute, it shall be presumed that the premises or part thereof was let with the knowledge that it may be so used unless the accused proves that he had made all necessary inquiries and had no reason to believe at the time when it was let that the tenant was a prostitute and that he had taken all reasonable steps to prevent its use for carrying on the business of a common prostitute.] Presumption as to knowledge.

[1] This section was inserted by Bom. 26 of 1948, s. 10.

Arrest without warrant.

*10. [1][(*1*) Any police officer on information, and, if the offence is committed in his view, any police officer specially authorized in this behalf by the Commissioner of police, may arrest without a warrant any person committing any offence punishable under section 3.]

(*2*) Any police officer may, without an order from a magistrate and without a warrant arrest any person who has been concerned in any offence punishable under section 8 or against whom a reasonable complaint has been made or credible information has been received or a reasonable suspicion exists of his having been concerned in an offence under that section or of his having committed an offence under section 9, sub-section (*5*).

11. [*Power to enter premises.*] *Repealed by Bom. 12 of 1930, s. 6.*

Offences triable by certain magistrates only.

12. Offences punishable under sections 5, 6, 7, [2][8 and 9A] shall be triable by the Courts of Session, stipendiary Presidency Magistrates and stipendiary Magistrates of the First Class only.

Repeals and amendments.

13. (*1*) [*The repeals and amendments made by sub-section (1) in the City of Bombay Police Act, 1902, have been incorporated in the principal Act.*] Bom IV of 1902.

†(*2*) In any municipal district [3][or municipal borough] to which section 3 may be extended under section 1, sub-section (*2*), section 152 of the Bombay District Municipal Act, 1901 [4][or section 188 of the Bombay Municipal Boroughs Act, 1925, as the case may be], shall be deemed to have been repealed from the date of such extension. Bom. III of 1901; Bom. XVIII of 1925.

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[1] Sub-section (*1*) was substituted for the original sub-section (*1*) by Bom. 9 of 1926, s. 5.

[2] The figures, letter and word "8 and 9A" were substituted for the original word and figure "o 8" by Bom. 7 of 1943, s. 3, read with Bom. 26 of 1948, s. 2.

[3] The words "or municipal borough" were inserted by Bom. 26 of 1931, s. 2 (*1*).

[4] These words and figures were inserted *ibid.*, s. 2 (*2*).

* The provisions of this section have been extended to the towns of Poona, Ahmednagar, Ahmedabad, Belgaum, Nasik and Dhulia, the municipal boroughs of Sholapur, Pandharpur, Surat, Bhusaval and the Bombay Suburban District.

† The provisions of this sub-section have been extended to the towns of Ville Parle, Ghatkopar, Kirol and Juhu in the Bombay Suburban District; and to the municipal boroughs of Sholapur, Pandharpur, Poona City, Poona Suburban, Belgaum, Bandra, Ahmedabad, Ahmednagar, Dhulia, Nasik, Kurla, Surat, Bhusawal and Jalgaon.

BOMBAY ACT No. IX OF 1924.[1]

[THE CATTLE-TRESPASS (AMENDMENT) ACT, 1924.]

[*6th January 1925.*]

An Act further to amend the Cattle-trespass Act, 1871.

1 of 1871. WHEREAS it is expedient further to amend the [2]Cattle-trespass Act, 1871, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Cattle-trespass (Amendment) Act, 1924. Short title.

1 of 1871. 2. After the proviso to section 6 of the [2]Cattle-trespass Act, 1871, the following shall be inserted, namely:— Amendment of section 6 of Act I of 1871.

"Provided further that in the Presidency of Bombay, in any local area which has been declared to be a village under clause (*a*) of section 3 of the [3]Bombay Village Panchayats Act, 1920, when the police patel, or the head of the village, is the Sar-Panch of the panchayat, the panchayat may appoint another person to be poundkeeper."

Bom. IX of 1920.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1924, Part V, pp. 86-87: and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1924, Vol. XIII.

[2] Central Acts.

[3] See now the Bombay Village Panchayats Act, 1933 (Bom. 6 of 1933).

THE BOMBAY PREVENTION OF ADULTERATION ACT, 1925.

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BOMBAY ACT No. V OF 1925.[1]

[THE BOMBAY PREVENTION OF ADULTERATION ACT, 1925.]

[*2nd November 1925.*]

Amended by Bom. 23 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to make better provision in the City of Bombay and elsewhere in the Bombay Presidency to prevent the adulteration of articles of food and the sale of such adulterated articles.

WHEREAS it is expedient to make better provision in the City of Bombay and elsewhere in the Bombay Presidency to prevent the adulteration of articles of food and the sale of such adulterated articles; AND WHEREAS the previous sanction of the Governor General required by section 80A (*3*) (*e*) and (*h*) of the Gove nment of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6, Geo.V, c. 61.

1. (*1*) This Act may be called the Bombay Prevention of Adulteration Act, 1925. Short title, extent and operation.

(*2*) It extends to the whole of the Bombay Presidency.

*(*3*) It shall come into operation in the first instance only in the City of Bombay and thereafter either in respect of any specified article of food or generally in respect of all articles of food in such other local area and from such date as the Government of Bombay may, [2][after consultation with] the local authority concerned by notification in the [3][*Official Gazette*], direct.

2. In this Act unless there is something repugnant in the subject or context— Definitions.

(*a*) "*Food*" includes every article used for food or drink by man, other than drugs or water, and any article which ordinarily enters into or is used in the composition or preparation of human food and also includes flavouring matters and condiments;

(*b*) "Local Area" means the City of Bombay or the area comprised within the limits of a municipality, cantonment, notified area or village or any place wherein a market or fair is held or any area which the Government of Bombay by notification declares to be a local area for the purposes of this Act;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1924, Part V, page 80; for Report of the Select Committee, *see Bombay Government Gazette*, 1925, Part V, pages 14–17; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1924 and 1925, Vols. XIII and XV.

* This Act came into operation in the Municipal Borough of Surat from 1st March 1934, *vide* G. N. No. 8095(*b*), dated the 13th December 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 3043.

[2] The words "after consultation with" were substituted for the words "at the request of" by Bom. 23 of 1935, s. 2.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*c*) "Local Authority" means in the case of the City of Bombay the Municipal Commissioner [1][and in the case of the City of Karachi, the Chief Officer,] acting under the general or special orders of the Corporation [2][concerned], in the case of any other [3][municipal area] the municipality, in the case of a cantonment the cantonment authority, in the case of a notified area the person or committe appointed under section 188 of the [4]Bombay District Municipal Act, 1901, [5]* in the case of a district local board area, the district local board [6][and in the case of an area declared to be a village under the Bombay Village Panchayats Act, 1933, the panchayat]; Bom. III of 1901. Bom. VI of 1933.

[7][(*d*) "Prescribed" means prescribed by rules made by the Government of Bombay under section 19;]

[7][(*e*) "Rule" means a rule made by the Government of Bombay under section 19.]

Prohibition of mixing of food with injurious ingredients or selling the same.

3. Any person who mixes, colours, stains or powders or orders or permits any other person to mix, colour, stain or powder any article of food with any matter or ingredient [8][in contravention of the rules or] so as to render the article injurious to health with intent that the same may be sold in that state or sells or offers, [9][keeps] or exposes for sale any such article so mixed, coloured, stained or powdered shall be [10][punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with simple imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both]:

Exemption in case of proof of absence of knowledge.

Provided that no person shall be liable to be convicted in respect of the sale [11][offer, keeping or exposing for sale] of any article of food if he proves to the satisfaction of the court before whom he is charged that he did not know of the article of food being so mixed, coloured, stained or powdered as aforesaid and that he could not with reasonable diligence have obtained such knowledge:

[12][Provided further that nothing in the preceding proviso shall exempt any person from liability under this section in respect of the sale, offer, keeping or exposing for sale of any article of food, if such article was imported from any place in which the provisions of this Act were not in operation in respect of the said article at the date of its importation.]

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[1] These words were inserted by Bom. 23 of 1935, s. 3 (*1*) (*i*).

[2] The word "concerned" was inserted, *ibid.*, s. 3 (*1*) (*ii*).

[3] The words "municipal area" were substituted for the word "municipality", *ibid.*, s. 3 (*1*) (*iii*).

[4] *Supra.*

[5] The word "and" was deleted by Bom. 23 of 1935, s. 3 (*1*) (*iv*).

[6] These words and figures were added, *ibid.*, s. 3 (*1*) (*v*).

[7] Clauses (*d*) and (*e*) were added, *ibid.*, s. 3 (*2*).

[8] The words "in contravention of the rules or" were inserted, *ibid.*, s. 4 (*i*).

[9] The word "keeps" was inserted, *ibid.*, s. 4 (*ii*).

[10] These words were substituted for the words "punished for the first offence with a fine which may extend to five hundred rupees and for every subsequent offence with a fine which may extend to one thousand rupees", *ibid.*, s. 4 (*iii*).

[11] The words "offer, keeping or exposing for sale" were inserted, *ibid.*, s. 4 (*iv*).

[12] This proviso was added *ibid.*, s. 4 (*v*).

4. [1](*1*) Any person who—

Prohibition of sale or manufacture for sale of food not of the proper nature, substance or quality.

(*a*) sells or causes to be sold or offers for sale to the prejudice of the purchaser any article of food which is not of the nature, substance or quality demanded by or on behalf of the purchaser, or

(*b*) manufactures or offers, keeps or exposes for sale any article of food which is not of the nature, substance or quality which it purports to be, or

(*c*) commits a breach of any of the prescribed conditions subject to which any article of food is to be sold or manufactured, offered, kept or exposed for sale,

shall be punishable for every first offence with fine which may extend to two hundred rupees and for every subsequent offence with simple imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both.

Protection to persons acting in good faith.

(*2*) Provided that no offence shall be deemed to have been committed under this section in the following cases, that is to say—

(*a*) where any matter or ingredient not injurious to health has been added to the article of food because such matter or ingredient is required for the production or preparation thereof as an article of commerce in a state fit for carriage or consumption and not fraudulently to increase the bulk, weight or measure of the food or conceal the inferior quality thereof ;

[2](*b*) where any matter or ingredient not injurious to health has been added to or mixed with or abstracted from any article of food, before the sale thereof, the seller has brought to the notice of the purchaser, by means of a label conforming to such conditions as may be prescribed by rules in this behalf, the fact that such matter or ingredient has been so added, mixed or abstracted or the article is composed of such matter or ingredients.

[2]*Explanation.*—Ghee or butter which contains any substance not exclusively derived from milk shall be deemed to be an article of food not of the nature, substance or quality it purports to be.

What is or is not a good defence in prosecutions under this section.

(*3*) In any prosecution under this section it shall be no defence to allege that the seller was ignorant of the nature, substance or quality of the article of food sold by him, or that the article was not defective in all three respects, namely, nature, substance and quality :

Provided that the seller shall not be deemed to have committed an offence under this section if he proves to the satisfaction of the court—

(*a*) that the article sold was purchased or obtained as agent by him as the same in nature, substance and quality, as that demanded by the purchaser and with a written warranty to the effect that it was of such nature, substance and quality ;

(*b*) that he had no reason to believe at the time when he sold it that the article was not of such nature, substance and quality as aforesaid ; and

(*c*) that he sold it in the same state in which he purchased it.

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[1] Sub-section (*1*) was substituted for the original sub-section by Bom. 23 of 1935, s. 5 (*1*).

[2] Clause (*b*) and the Explanation were substituted for the original clause and Explanations 1 and 2, *ibid.*, s. 5 (*2*).

[1][(*4*) No evidence of a warranty under proviso (*a*) to sub-section (*3*) shall be admissible on behalf of the seller—

(*a*) unless the seller has within three days of the service of the summons under section 13 sent to the complainant a copy of the warranty with a written notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it and has also sent a like notice of his intention to that person ; and

(*b*) except in a case where the Court itself is otherwise satisfied of the genuineness of the warranty, unless such warranty is proved by the personal attendance in the Court of the person by whom or on whose behalf it was given.

Explanation.—In calculating the period of three days under clause (*a*) public holidays within the meaning of section 25 of the Negotiable Instruments Act, 1881, shall be excluded. XXVI of 1881.

Penalty for false warranty.

5. Any person who in respect of an article of food sold by him as principal or agent gives to the purchaser a false warranty in writing shall be [2][punishable for every first offence with fine which may extend to five hundred rupees and for every subsequent offence with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees or which both].

Appointment of public analyst.

*6. (*1*) Save as provided in sub-section (*2*) the Government of Bombay may by notification in the [3][*Official Gazette*] appoint any qualified person possessing skill and experience to be a public analyst for the purpose of the Act for any local area.

(*2*) The Corporation of the City of Bombay may appoint any such person to be a public analyst for the purpose of the Act for the City of Bombay.

Power to purchaser of an article of food to have food analysed.

7. [4]Any purchaser of an article of food shall, within the seven days after the day of the purchase, be entitled, on payment to the public analyst of the local area in which the article is purchased, of such sum as the Government of Bombay may in the [3][*Official Gazette*] from time to time notify, to have such article, analysed by such analyst and to receive from him in the form specified in Schedule A a certificate of the result of his analysis. The analyst shall forthwith send a copy of every such certificate to the local authority of the local area for which he was appointed.

Appointment of Inspector.

8. [4]A local authority may, subject to rules made by the Government of Bombay in this behalf, appoint any person to be an inspector under this Act either specially for any article of food or generally for all articles of food.

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[1] Sub-section (*4*) was inserted by Bom. 23 of 1935, s. 5 (*3*).

[2] These words were substituted for the words "punished for every first offence with a fine which may extend to five hundred rupees and for every subsequent offence with a fine which may extend to one thousand rupees", *ibid.*, s. 6.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] For Rules under this section see *Bombay Government Gazette*, 1929, Part I, pp. 1650–1653, *see also* G. D. Notifications No. 8100, dated 24th March 1931, published in the *Sind Official Gazette*, 1931, Part I, pp. 1881–85 ; No. 8184, dated 25th November 1932, published in the *Bombay Government Gazette*, Part I-A of 1932, pp. 184-187 ; and No. 8095, dated 6th February 1934, published in the *Bombay Government Gazette*, 1934, Part I, pp. 382–385.

* The Officer in charge of the Public Health Laboratory at Poona was appointed to be a Public Analyst by Govt. Notifn. No. 8095(*a*), dated the 13th December 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 3043.

9. An inspector may, himself or by an agent, procure any article or sample of food, [1][manufactured, or offered, kept or exposed for sale] and if he suspects that such food [1][is offered, kept or exposed for sale or] has been sold contrary to the provisions of this Act, shall send such article or sample to be analysed to the public analyst of the local area within which the food was procured; and such analyst shall, upon receiving payment of the sum specified in section 7, with all convenient speed analyse the same and deliver to such inspector in the form specified in Schedule A a certificate of the result of his analysis. The analyst shall forthwith send a copy of every such certificate to the local authority of the local area for which he was appointed.

Inspector may obtain article or sample of food and submit to analyst.

10. (*1*) Any person purchasing any article or sample of food with the intention of sending such article or sample for analysis shall, after the purchase shall have been completed, forthwith notify to the seller or his agent selling the article or sample his intention to have such article or sample analysed by the public analyst; and shall offer to divide the article or sample into three parts to be then and there divided and each part to be marked and sealed and fastened in such manner as its nature permits, and shall, if required to do so, proceed accordingly and shall deliver one of the parts to the seller or his agent.

Dealing with the article of food or sample when purchased.

(*2*) If the seller or his agent do not accept the offer of the purchaser to divide the article or sample purchased in his presence, the public analyst receiving the article or sample shall divide such article or sample into two parts and shall seal or fasten up one of those parts and shall cause it to be delivered, either upon receipt of the article or sample or when he supplies his certificate, to the purchaser, who shall retain such part for production in case proceedings under this Act in respect of such article or sample should afterwards be taken.

Provision when article or sample is not divided.

11. If any inspector duly authorised under section 8 shall apply to purchase any article or sample of food manufactured, exposed or offered for sale, whether wholesale or retail, and shall tender the price for the quantity which he shall require for the purpose of analysis not being more than shall be reasonably requisite and the person manufacturing, exposing or offering such food for sale refuses to sell such article or sample the person so refusing shall be, [2][punishable for every first offence with fine which may extend to two hundred rupees and for every subsequent offence with simple imprisonment which may extend to three months or with fine which may extend to one thousand rupees or with both].

Person refusing to sell food to inspector liable to penalty.

12. (*1*) No offence under this Act shall be triable by a magistrate exercising powers less than those of a magistrate of the second class.

Offence by which magistrate triable.

(*2*) [3]* * * * *

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[1] These words were inserted by Bom. 23 of 1935, s. 7.

[2] These words were substituted for the words "punished with a fine which may extend to two hundred rupees" *ibid.*, s. 8.

[3] Sub-section (*2*) was omitted by the Adaptation of Indian Laws Order in Council.

Summons when to be applied for and what it is to contain.

13. (*1*) No summons shall be issued for the attendance of a person accused of an offence under this Act unless the summons is applied for within thirty days of the date of the grant of the certificate by the public analyst of the result of his analysis.

(*2*) Every such summons shall specify the particulars of the offence charged, the name of the complainant and the date and place fixed for the hearing of the case. The case shall not be proceeded with until at least seven clear days have elapsed from the date of the service of the summons.

Certificate of public analyst to be evidence of facts therein stated.

14. (*1*) The production in any proceedings under this Act of certificate of a public analyst in the form specified in Schedule A shall, until the contrary is proved, be sufficient evidence of the facts therein stated.

Reference to Chemical Analyser to Government.

(*2*) The court may, of its own accord or on the request of the complainant, or the accused, cause any article or sample of food to be sent for analysis to the Chemical Analyser to Government who shall thereupon with all convenient speed analyse the same and report the result of the analysis to the court. The cost of such analysis shall be paid by the complainant or accused as the court shall direct.

Certificate of analyst other than public analyst as evidence.

15. When any person accused of an offence under this Act proposes to produce as evidence a certificate of analysis of an analyst other than a public analyst he shall, at least three days before the date fixed for the hearing of the defence, send a copy of such certificate to the person conducting the prosecution.

Public analyst to attend court in person.

16. When any person is accused of an offence under this Act he may require the court to summon as a witness the public analyst who analysed the article or sample of food in respect of which he is accused of an offence and the court [1][may, and shall in every case in which the accused deposits in the Court such sum of money in accordance with the scale prescribed as would be sufficient to meet the expenses of the attendance of the analyst before the Court, summon the analyst. If such person is acquitted, any sum of money so deposited shall be refunded to him].

Entry for purposes of the Act.

17. It shall be lawful for an inspector appointed under this Act to enter for the purposes of this Act at [2][any time when business of manufacture or sale is being carried on or at any other reasonable time] into or upon any place which he has reason to believe is used for the manufacture or sale of any food :

Provided that in making such entry due regard shall be paid to the social and religious customs of the occupiers.

Licence for places used for the manufacture, etc., of certain articles.

[3][**17A.** No place shall be used for the manufacture or preparation for the purpose of trade or carrying on the wholesale business of sale or purchase or supply, of butter, ghee, margarine, or any other fatty or oily substance intended for use as food or as an ingredient of food, without a licence granted by the local authority concerned subject to such conditions as may be prescribed.

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[1] These words were substituted for the words "shall thereupon summon the analyst as aforesaid" by Bom. 23 of 1935, s. 9.

[2] These words were substituted for the words "all reasonable times", *ibid.*, s. 10.

[3] Sections 17A, 17B, 17C, 17D and 17E were inserted, *ibid.*, s. 11.

Explanation.—For the purposes of this section the preparation of butter or ghee shall include the process of blending, reworking and subjecting to any other treatment such ghee or butter but not so as to make it cease to be butter or ghee, as the case may be.]

[1][**17B.** No licence shall be granted in respect of any place which is used for the purpose of blending, reworking or otherwise treating butter or ghee if such place forms part of or communicates otherwise than by a public street with any other place which is used for any other purpose referred to in section 17A.] No licence to be granted for certain premises.

[1][**17C.** If the owner or occupier of any place uses such place for any of the purposes mentioned in section 17A in contravention of the said section or any of the conditions prescribed, such owner or occupier shall, on conviction, be punishable for every first offence with fine which may extend to one hundred rupees and for every subsequent offence with simple imprisonment which may extend to three months, or with fine which may extend to five hundred rupees or with both. On a conviction for such offence the licence granted in respect of the said place shall be liable to be cancelled.] Penalty for use of place in contravention of section 17A.

[1][**17D.** (*1*) Every occupier of a place used for the manufacture of butter, ghee, margarine or any other fatty or oily substance intended for use as food or as an ingredient of food, and every wholesale dealer in any such substance, shall keep and maintain a statement in the form prescribed showing the quantity and destination of each consignment of butter, ghee, margarine, or any other such substance, as the case may be, sent out from his place or premises of manufacture or business, and the statement shall be open to the inspection of an officer of the local authority duly authorized in the manner prescribed. Registration of consignment.

(*2*) Any such occupier who

(*a*) fails to keep such statement; or

(*b*) refuses to produce the statement for inspection when required to do so by an officer of the local authority duly authorized; or

(*c*) fails to keep the statement posted up to date; or

(*d*) wilfully makes any entry in the statement which is false in any particular; or

(*e*) fraudulently omits to enter any particulars which ought to be entered in the statement, shall be punishable for every first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees.]

[1][**17E.** (*1*) No substance intended to be used for adulteration with butter or ghee shall be kept in any place used for the manufacture of butter or ghee and if any substance capable of being so used is found in such place either as such or mixed with butter or ghee, it shall be deemed to be intended to be so used, unless the contrary is proved. Prohibition of adulterants.

(*2*) No fat or oil of any animal or fish shall be kept in any place used for the manufacture of any fatty or oily vegetable substance intended for use as food or as an ingredient of food, and if any such fat or oil capable of being so used is found either as such or mixed with the fatty or oily substance, it shall be deemed to be intended to be so used, unless the contrary is proved.

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[1] Sections 17A, 17B, 17C, 17D and 17E were inserted by Bom. 23 of 1935, s. 11.

(*3*) If the owner or occupier of any place used for the manufacture of butter, ghee or any fatty or oily vegetable substance referred to in sub-section (*2*) uses such place in contravention of the provisions of sub-section (*1*) or (*2*), such owner or occupier shall, on conviction, be punishable for every first offence with fine which may extend to one hundred rupees and for every subsequent offence with fine which may extend to five hundred rupees.]

Liability for acts done in good faith in discharge of duty or exercise of power.

18. No person shall be liable to any penalty or to payment of damages on account of any act done in good faith in pursuance of any duty imposed or authority conferred on him by any provision of this Act or of any rule, order or direction lawfully made or given thereunder.

Rules.

[1]**19.** [2](*1*) The Government of Bombay may, after previous publication, and in the case of the City of Bombay [3][after consultation] with the Corporation of the City of Bombay and in the case of other local areas [3][after consultation] with the local authorities concerned, make rules, not inconsistent with the provisions of this Act, for—

(*a*) regulating the appointment of inspectors under section 8;

(*b*) prescribing the qualifications of inspectors;

(*c*) determining what deficiency in any of the normal constituents of any article of food or what addition of extraneous matter shall raise a presumption, until the contrary is proved, that such food is injurious to health within the meaning of section 3 or is not of the nature, substance or quality it purports to be within the meaning of section 4 [4]* * * *.

[5][(*d*) prohibiting the use of any particular matter or ingredients in the manufacture or preparation of any article of food;

[5](*e*) specifying the conditions subject to which any article of food shall be sold or manufactured, offered, kept or exposed for sale;

[5](*f*) prescribing the manner in which, the conditions subject to which and the fees on payment of which, licences shall be granted under section 17A;

[5](*g*) prescribing the form of a statement to be kept and maintained under section 17D and the manner in which an officer of a local authority shall be authorized to inspect such statements;

[5](*h*) prohibiting the use or addition as a preservative of any article, material or substance in the manufacture or preparation for sale of any article of food;

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[1] For Rules under this section *see* Bombay Local Rules and Orders, Vol. IV.

[2] Section 19 was renumbered as sub-section (*1*) by Bom. 23 of 1935, s. 12 (*v*).

[3] The words "after consultation" were substituted for the words "in consultation", *ibid.*, s. 12 (*i*).

[4] The words "and a public analyst shall have regard to such rules in certifying the result of an analysis under this Act; and" were omitted, *ibid.*, s. 12 (*ii*).

[5] Clauses (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*) and (*k*) were inserted, *ibid.*, s. 12 (*iii*).

[1](*i*) prohibiting the storage of articles of food other than those approved under the rules;

[1](*j*) prescribing the method in which labels shall be affixed, languages in which the labels shall be printed and the symbols which shall be used for different articles of food;

[1](*k*) authorizing a person taking a sample of milk or other article of food for purpose of analysis to add a preservative to such sample for maintaining it in a suitable condition for analysis and regulating the nature and method of addition of such preservative; and]

[2](*l*) generally for carrying out the provisions of this Act.

[3][(*2*) The rules to be made under sub-section (*1*) shall be subject to the condition of previous publication.

(*3*) Rules made under sub-section (*1*) shall be laid upon the table of [4][each of the Chambers of the Legislature] at the session [5][of the said Chamber] next following and shall be liable to be modified or rescinded by a resolut on [6][in which both Chambers concur] and such rule shall, after notification in the [7][*Official Gazette*], be deemed to have been modified or rescinded accordingly:

Provided that when, in the opinion of [8][the Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [8][the Provincial Government] may, by notification in the [7][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.]

[9][**19A.** Save as otherwise expressly provided for in this Act, any rule made under section 19 may provide that a contravention thereof shall be punishable with— Penalty for breach of rules.

(*a*) in the case of every first contravention with fine which may extend to one hundred rupees;

(*b*) in the case of every subsequent contravention with simple imprisonment which may extend to three months or with fine which may extend to five hundred rupees or with both.]

20. On the coming into operation of the provisions of this Act in any local area in respect of any article of food, the enactments specified in Schedule B shall be deemed to have been repealed to the extent specified in the third column of the said Schedule in respect of such article in such local area. Repeal.

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[1] Clauses (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*) and (*k*) were inserted by Bom. 23 of 1935, s. 12 (*iii*).

[2] Clause (*d*) was relettered as clause (*l*), *ibid.*, s. 12 (*iv*).

[3] Sub-sections (*2*) and (*3*) were added, *ibid.*, s. 12 (*v*).

[4] The words "each of the Chambers of the Legislature" were substituted for the words "the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[5] The words "of the said Chamber" were substituted for the words "of the said Council", *ibid.*

[6] The words "in which both Chambers concur" were substituted for the words "of the said Council", *ibid.*

[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[8] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[9] Section 19A was inserted by Bom. 23 of 1935, s. 13.

SCHEDULE A.

(*See* section 14.)

Form of Certificate.

To[1]

I, the undersigned, public analyst for the
do hereby certify that I received on the
day of 19 , from[2]
a sample of for analysis (which then
weighed[3]), and have analysed the same,
and declare the result of my analysis to be as follows :—

I am of opinion that the same is a sample of genuine

or,

I am of opinion that the said sample contained the parts as under, or the percentages of foreign ingredients as under.

Observations.[4]

Dated Signature.

SCHEDULE B.

(*See* section 20.)

Enactments Repealed.

No. and year of Act.	Title.	Extent of Repeal.
III of 1888 ..	The City of Bombay Municipal Act, 1888.	In section 417C the number, letter and word "417A or".
II of 1899 ..	The Bombay Prevention of Adulteration Act, 1899.	So much as remains unrepealed except section 6.
III of 1901 ..	The Bombay District Municipal Act, 1901.	Sub-section (2) of section 142.
III of 1902 ..	The Bombay District Municipal Act (1901) Amendment Act, 1902.	So much of the Schedule as relates to— (a) sub-section (2) of section 142 of the Bombay District Municipal Act, 1901 ; (b) sections 2, 4 and 5 of the Bombay Prevention of Adulteration Act, 1899.

[1] Here insert the name of the person submitting the article or sample for analysis.

[2] Here insert the name of the person delivering the article or sample.

[3] When the article or sample cannot be conveniently weighed, this passage may be erased or the blank may be left unfilled.

[4] Here the analyst may insert, at his discretion, his opinion as to whether the mixture (if any) was for the purpose of rendering the article portable or palatable, or of preserving it, or of improving the appearance, or was unavoidable, and may state whether in excess of what is ordinary, or otherwise, and whether the ingredients or materials mixed are or are not injurious to health.

In the case of a certificate regarding milk, butter, or any article liable to decomposition, the analyst shall specially report whether any change had taken place in the constitution of the article that would interfere with the analysis.

THE BOMBAY BETTING TAX ACT, 1925.

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7. Inspection of totalisator accounts.
8. Betting Tax.
9. List of licensed bookmakers.
10. Method of recovery of totalisator tax.
11. Rules.
12. Amendment of section 3 of Bom. I of 1923—(*Not printed*).

BOMBAY ACT No. VI OF 1925.[1]

[THE BOMBAY BETTING TAX ACT, 1925.]

[*26th November 1925.*]

Amended by Bom. 4 of 1931.

Amended by Bom. 2 of 1932, read with Bom. 23 of 1948, section 14.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 11 of 1943.

An Act to impose a tax on [2][certain forms of] betting.

WHEREAS it is necessary to make an addition to the public revenue of the Bombay Presidency and for that purpose to impose a tax on [2][certain forms of] betting:

AND WHEREAS the previous sanction of the Governor General required by section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6, Geo. V, c. 61.

1. This Act may be called the Bombay [3]* Betting Tax Act, 1925. Short title.

2. It extends to the whole of the Bombay Presidency. Extent.

3. (*1*) It shall come into operation [4]* * * in the first instance in— Operation.

(*a*) the City of Bombay, and

(*b*) the Cantonment of Poona.

(*2*) The [5][Provincial Government] may, by notification in the [6][*Official Gazette*], direct that this Act or any portion thereof shall come into operation in any other area in the Bombay Presidency on such date as may be specified in such notification:

[7]* * *

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1925, Part V, p. 62; for Report of Select Committee, see *ibid.*, 1925, Part V, pp. 259–62; and for Proceedings in Council, see Bombay Legislative Council Debates, 1925, Vols. XV and XVI.

[2] The words "certain forms of" were substituted for the word "totalisator" by Bom. 4 of 1931, s. 2.

[3] The word "Totalisator" was deleted, *ibid.*, s. 3.

[4] The words "on the first day of December 1925" were repealed, *ibid.*, s. 4.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[7] The proviso to sub-section (*2*) was omitted, *ibid.*

Definitions.

4. In this Act unless there is anything repugnant in the subject or context—

[1](*i*) "backer" includes any person who bets at a totalisator or with a licensed bookmaker;

(*ii*) "bet" includes "wager", and "betting" includes "wagering";

(*iii*) "prescribed" means prescribed by rules under this Act;

(*iv*) "licensee" means a person to whom a licence has been granted for horse-racing on a race-course under section 4 of the Bombay Race-courses Licensing Act, 1912; Bom. III of 1912.

[2][(*v*) "licensed bookmaker" means any person who carries on the business or vocation of or acts as a bookmaker or turf commission agent under a licence or permit issued by a licensee to enable him to carry on his business or vocation under the Bombay Race-courses Licensing Act, 1912, as specified in the licence or permit;] Bom. III of 1912.

[3](*vi*) "totalisator" means a totalisator in an enclosure which the licensees have set apart in accordance with the Bombay Race-courses Licensing Act, 1912, and includes any instrument, machine or contrivance known as the totalisator or any other instrument, machine or contrivance of a like nature or any scheme for enabling any number of persons to make bets with one another on the like principles. Bom. III of 1912.

Tax on totalisator and payment thereof.

5. There shall be charged, levied and paid to the Government of Bombay out of all monies paid into any totalisator by way of stakes or bets a tax on backers hereinafter referred to as the totalisator tax at such rate not exceeding [4][12½ per cent.] of every sum so paid as the [5][Provincial Government] may from time to time notify [6]in this behalf; and such portion of the monies so paid into a totalisator as is equal to the amount of the totalisator tax at the rate notified as aforesaid by the [5][Provincial Government] in this behalf shall be deemed to have been paid by the backer on account of the totalisator tax and shall be received by the licensees on behalf of the Government of Bombay.

Totalisator tax to be paid to Government.

6. The licensees shall forward at the time and in the manner and to the officer prescribed in this behalf a return stating the total amount of the monies paid into the totalisator at any meeting and shall whenever required make over to the prescribed officer the amount of the tax collected at each meeting.

Inspection of totalisator accounts.

7. Every person having the custody or control of totalisator accounts shall, when required in writing by an officer empowered in this behalf by the [5][Provincial Government], permit such officer or an officer authorized in writing by him in this behalf to inspect and to take copies of them.

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[1] This clause was substituted for the original clause by Bom. 4 of 1931, s. 5 (*a*).

[2] This clause was inserted, *ibid.*, s. 5 (*b*).

[3] This clause was re-numbered as clause (*vi*) *ibid.*, s. 5 (*c*).

[4] These figures and words were substituted for the original by Bom. 2 of 1932, s. 42, read with section 14 of Bom. 23 of 1948 and section 9 of Bom. 2 of 1949.

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[6] For Notification under this section, *see* Government Notification in the Revenue Department No. 4397A, dated the 17th June 1926, published in the *Bombay Government Gazette*, 1926, Part I, p. 1439.

[1][8. (*1*) There shall, as from such date as may be notified by the [2][Provincial Government] in this behalf, be charged, levied and paid to the Government of Bombay out of all monies paid or agreed to be paid to a licensed bookmaker by a backer in respect of a bet made in an enclosure set apart by the licensees in accordance with the provisions of the Bombay Race-courses Licensing Act, 1912, on any race, a tax, hereinafter referred to as the betting tax, at such rate not exceeding [3][12½ per cent.] of all such monies as the [2][Provincial Government] may notify in this behalf. Betting Tax.

Bom. III of 1912.

(*2*) The betting tax shall be collected and paid to Government in such manner as may be prescribed.]

[1][9. (*1*) The licensees shall, at such times and in such manner as may be prescribed, forward to the prescribed officer returns setting out the names of the bookmakers licensed or permitted by them, from time to time, to carry on the business or vocation of a bookmaker. List of licensed bookmakers.

(*2*) All licensed bookmakers shall keep accounts of all sums paid or agreed to be paid by backers in respect of bets, in such manner as may be prescribed, and shall, when required in writing by an officer empowered in this behalf by [4][the Provincial Government], permit such officer, or any officer authorized in writing by him this behalf, to inspect and take copies of such accounts.]

[5]10. The totalisator tax payable under section 5 shall be recoverable from the licensees as an arrear of land revenue. Method of recovery of totalisator tax.

[5]11. The [2][Provincial Government] may make rules [6]for securing the payment of the totalisator tax, [7][and the betting tax], the production and inspection of accounts kept under this Act, and generally for carrying into effect the provisions of this Act and for dealing with such matters as are herein directed to be prescribed. Rules.

Bom. I of 1923.

[5]12. [*The amendment made by this section has been incorporated in the Bombay Entertainments Duty Act, 1923.*] Amendment of section 3 of Bom. I of 1923.

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[1] Sections 8 and 9 were inserted by Bom. 4 of 1931, s. 6.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] These figures and words were substituted for the original by Bom. 2 of 1932, s. 42, read with section 14 of Bom. 23 of 1948 and section 9 of Bom. 2 of 1949.

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] These sections were re-numbered by Bom. 4 of 1931, s. 7.

[6] For Rules under this section, *see* Government Notifications, Revenue Department, No. 5457/E-24, dated the 22nd December 1925, published in the *Bombay Government Gazette*, 1925, Part I, pp. 3281-82, and No. 5457/24, dated 24th June 1931, published in the *Bombay Government Gazette*, 1931, Part I, pp. 1493-95.

[7] These words were inserted by Bom. 4 of 1931, s. 8.

THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.

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BOMBAY ACT No. VII OF 1925.[1]

[THE BOMBAY CO-OPERATIVE SOCIETIES ACT, 1925.]

[*4th December 1925.*]

Amended by Bom. 8 of 1933.
,, ,, ,, 22 of 1935.
,, ,, ,, 8 of 1936.
,, ,, ,, 17 of 1936.
,, ,, ,, 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 29* of 1942.
,, ,, ,, 16* of 1943.
,, ,, ,, 28 of 1948.
,, ,, ,, 14 of 1949.

An Act to consolidate and amend the law relating to Co-operative Societies in the Presidency of Bombay.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Bombay; and whereas the previous sanction of the Governor-General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6, Geo. V, c. 61.

[2][CHAPTER I.

PRELIMINARY.]

1. This Act may be called the Bombay Co-operative Societies Act, 1925. Short title.

2. This Act extends to the whole of the Presidency of Bombay. Extent.

3. In this Act, unless there is anything repugnant in the subject or context, Definitions.

(*a*) "by-laws" means by-laws registered under this Act and for the time being in force and includes a registered amendment of such by-law;

(*b*) "Committee" means the Committee of Management or other directing body to whom the management of the affairs of a society is entrusted;

(*c*) "Member" includes a person joining in the application for the registration of a society or a person admitted to membership after registration in accordance with the rules and by-laws applicable to such society;

(*d*) "Officer" includes a chairman, secretary, treasurer, member of committee or other person empowered under the rules or under the by-laws of a society to give directions in regard to the business of such society;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1924, Part V, pp. 46-48; for Report of Select Committee, *see ibid.*, 1924, part V, pp. 108-13 and *ibid.*, 1925, Part V, pp. 68-70: and for proceedings in Council, *see* Bombay Legislative Council Debates, 1924 and 1925, Vols. XII, XIII and XV.

*This Act has been repealed and re-enacted by Bom. 28 of 1948, s. 2.

[2] The words and figure "Chapter I—*Preliminary*" were substituted for the word "*Preliminary*" by Bom. 8 of 1936, s. 2.

(*e*) "Society" means a society registered or deemed to be registered under this Act;

(*f*) "Registrar" means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act;

(*g*) "Rules" means rules made under this Act;

(*h*) (*1*) a "Resource society" means a society formed with the object of obtaining for its members the credit, goods or services required by them;

(*2*) a "Producers' society" means a society formed with the object of producing and disposing of goods as the collective property of its members and includes a society formed with the object of the collective disposal of the labour of the members of such society;

(*3*) a "Consumers' society" means a society formed with the object of obtaining and distributing goods to or of performing services for its members, as well as to other consumers and of dividing among its members and customers in a proportion prescribed by the rules or by the by-laws of such society, the profits accruing from such supply and distribution;

(*4*) a "Housing society" means a society formed with the object of providing its members with dwelling houses on conditions to be determined by its by-laws;

(*5*) a "General society" means a society not falling under any of the four classes above-mentioned.

[1][(*6*) a "Federal society" means a society not less than three-fourths of the members of which are societies.]

[2][(*7*) a "Farming society" means a society formed with the object of promoting development of land and better methods of cultivation by means of improved seed, manure, irrigation, bunding, tractor ploughing, gully plugging and soil conservation.

Explanation.—A Farming society shall be of two classes:—(1) a Better farming society, and (2) a Co-operative farming society.—

(*i*) A Farming society shall be classed as a Better farming society if the predominant object is the application of improved methods of cultivation. A Better farming society includes a Crop protection society;

(*ii*) A Farming society shall be classed as a Co-operative farming society if the predominant object is the application of co-operative methods by the holders of lands and in respect of cultivation.]

The Registrar shall classify all societies under one or other of the above heads and his decision shall be final:

[3][Provided that the Registrar for reasons to be recorded in writing may alter the classification of any society from one head to another head or from one sub-head to another sub-head.]

A society formed with the object of facilitating the operations of any one of the above classes of societies shall be classified as a society of that class.

A list of all such societies, so classified shall be published annually in the [4][*Official Gazette*].

[5](*i*) "Tribunal" means the Bombay Co-operative Tribunal constituted under section 63A].

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[1] Sub-clause (*6*) was inserted by Bom. 28 of 1948, s. 3 (*i*).
[2] This sub-clause was inserted by Bom. 14 of 1949, s. 2 (1).
[3] This proviso was added, *ibid.*, s. 2 (2).
[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.
[5] Clause (*i*) was inserted by Bom. 28 of 1948, s. 3 (*ii*).

[1][CHAPTER II.

REGISTRATION.]

4. [2][The Provincial Government] may appoint a person to be Registrar of Co-operative Societies for the presidency or any portion of it, and may appoint a person or persons to assist such Registrar, and may, by general or special order, confer on any such person or persons all or any of the powers of a Registrar under this Act. The Registrar.

[3][**5.** Subject to the provisions hereinafter contained a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles or a society established with the object of facilitating the operations of such a society may be registered under this Act with or without limited liability: Societies which may be registered.

Provided that—

(*1*) unless the Provincial Government by general or special order otherwise directs, the liability of a society of which a member is a society shall be limited;

(*2*) the members of a society which has been registered under this Act with unlimited liability such liability not having been changed from unlimited to limited under this Act shall, on its liquidation, be jointly and severally liable for and in respect of all its obligations.]

6. Where the liability of the members of a society is limited by shares, no member other than a society shall— Restrictions on interest of member of society with limited liability and a share capital.

(*a*) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules; or

(*b*) have or claim any interest in the shares of the society exceeding [4][ten thousand] rupees: provided that if the society is a housing society a member may have or claim an interest in the shares of the society not exceeding [5][twenty thousand rupees].

7. (*1*) No society, other than a society of which a member is a society, shall be registered under this Act, which does not consist of at least ten persons above the age of eighteen years and, where the object of the society is the creation of funds to be lent to its member, unless [6][all persons forming the society]— Conditions of registration.

(*a*) reside in the same town or village or in the same group of villages; or

(*b*) save where the Registrar otherwise directs, are members of the same tribe, class [7]* or occupation [8][and no person shall be admitted to the membership of any such society after its registration unless such person fulfills the requirements of clause (*a*) or (*b*), as the case may be.]

(*2*) The word "limited" shall be the last word on the name of every society with limited liability registered under this Act.

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[1] The words and figures "Chapter II—*Registration*" were substituted for the word "*Registration*" by Bom. 8 of 1936, s. 2.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] Section 5 was substituted for the original by Bom. 28 of 1948, s. 4.

[4] The words "ten thousand" were substituted for the words "three thousand", *ibid.*, s. 5.

[5] The words "twenty thousand rupees" were substituted for the letters and figures "Rs. 10,000", *ibid.*, s. 5.

[6] These words were substituted for the words "such persons" *ibid.*, s. 6 (*i*).

[7] The word "caste" was deleted, *ibid.*, s. 6 (*ii*).

[8] These words, brackets and letters were inserted, *ibid.*, s. 6 (*iii*).

Power of Registrar to decide certain questions.

8. When any question arises whether for the purpose of the formation, or registration or continuance of a society [1][or the admission of a person as a member of a society] under this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class [2]* or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Application for registration.

9. (*1*) For purposes of registration an application to register shall be made to the Registrar.

(*2*) The application shall be signed,—

(*a*) in the case of a society of which no member is a society, by at least ten persons qualified in accordance with the requirements of section 7, sub-section (*1*); and

(*b*) in the case of a society of which a member is a society, by a duly authorised person on behalf of every such society and where all the members of the society are not societies, by ten other members or, when there are less than ten other members, by all of them.

(*3*) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

10. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws.

Evidence of registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Annual general meeting.

12. Every society shall within a period of three months after the date fixed for making up its accounts for the year under the rules for the time being in force call a general meeting of its members.

Special general meetings.

13. A special general meeting may be called at any time by a majority of the committee and shall be called within one month—

(*1*) on the requisition in writing of one-fifth of the members of the society, or

(*2*) at the instance of the Registrar, [3][or

(*3*) in case of a society which is a member of a federal society, at the instance of an officer of such federal society.]

Change of name: its effect.

14. A society may, by a resolution of a general meeting and with the approval of the Registrar, change its name: but such change shall not affect any right or obligation of the society, or of any of its members, or past members and any legal proceedings pending may be continued by or against the society under its new name.

Amalgamation or transfer of societies.

15. (*1*) Any two or more societies may, with the approval of the Registrar by resolution passed by a three-fourths majority of the members present at a special general meeting of each such society held for the purpose, amalgamate as a single society: provided that each member has had clear fifteen days' written notice of the resolution and the date of the meeting. Such an amalgamation may be effected

[1] These words were inserted by Bom. 28 of 1948, s. 7 (*i*).
[2] The words "caste" was deleted *ibid.*, s. 7 (*ii*).
[3] These words, brackets and figures were added, *ibid.*, s. 8.

without a dissolution, or a division of the funds, of the amalgamating societies. The resolution of the societies concerned shall on such amalgamation be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society.

(*2*) Any society may by a resolution passed in accordance with the procedure laid down in sub-section (*1*) transfer its assets and liabilities to any other society which is prepared to accept them :

Provided that when any such amalgamation or transfer of assets and liabilities involves the transfer of its liabilities by any society to any other society, it will not be made without giving three months' notice to the creditors of both or all such societies :

Provided further that if a creditor or creditors of any of the societies concerned objects or object to such amalgamation or transfer of assets and liabilities and gives or give written notice to that effect to the society or societies concerned one month before the date fixed for such amalgamation or transfer, the amalgamation or transfer shall not be made until the dues of such creditor or creditors have been satisfied.

Division of societies.

[1][**15A.** (*1*) Any society may, with the approval of the Registrar, by a resolution passed by a three-fourths majority of the members present at a special general meeting of the society held for the purpose, resolve to divide itself into two or more societies, provided that each member has had fifteen clear days written notice of the resolution and the date of the meeting. The resolution (hereinafter in this section referred to as a preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies in which it is proposed to divide it and may prescribe the area of operation of, and specify the members who will constitute, each of the new societies.

(*2*) A copy of the preliminary resolution shall be sent to all the members and creditors of the society. A notice of the resolution shall also be given in the prescribed manner to all other persons whose interests will be affected by the division of the society.

(*3*) Any member of the society may, notwithstanding any by-law to the contrary by notice given to the society within a period of three months from his receipt of the resolution, intimate his intention not to become a member of any of the new societies.

(*4*) Any creditor of the society may, not withstanding any agreement to the contrary by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(*5*) Any other person whose interests will be affected by the division may by notice given to the society object to the division unless his claim is satisfied.

(*6*) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society and of the notice by other persons given under sub-section (*2*), another special general meeting of the society, of which at least fifteen clear days notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as in the opinion of the Registrar are not material, he may, subject to the provisions of sub-section (*9*) and section 10, register the new societies and the by-laws thereof. On such registration, the registration of the old society shall be deemed to have been cancelled and the society shall be deemed to be dissolved from the date of such cancellation.

[1] Section 15A was inserted by Bom. 28 of 1948, s. 9.

(*7*) The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(*8*) At the special general meeting referred to in sub-section (*6*) provision shall be made by another resolution for—

(*i*) repayment of the share capital of all the members who have given notice under sub-section (*3*);

(*ii*) satisfaction of the claims of all the creditors who have given notice under sub-section (*4*);

(*iii*) satisfaction of the claims of such of the other persons who have given notice under sub-section (*5*) as the registrar decides or securing their claims in such manner as the Registrar directs:

Provided that no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in sub section (*6*).

(*9*) If within such time as the Registrar considers reasonable, the share capital of the members referred to in sub-section (*8*) is not repaid or the claims of the creditors referred to in that sub-section are not satisfied, or the claims of the other persons are not satisfied or secured as provided in clause (*iii*) of sub section (*8*), the Registrar may refuse to register the new societies.

(*10*) Notwithstanding anything contained in the Transfer of Property Act, 1882, IV of 1882. or the Indian Registration Act, 1908, the registration of the new societies shall be XVI of 1908. a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under sub-section (*6*).]

Amendment of the by-laws of a society.

16. (*1*) No amendment of the by-laws of a society shall be valid until approved by the resolution of a general meeting and registered under this Act for which purpose a copy of the amendment shall be forwarded to the Registrar.

(*2*) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules, he may register the amendment.

(*3*) When the Registrar registers an amendment of the by-laws of a society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

Change of liability of society from limited to unlimited or from unlimited to limited.

[1][**16A.** (*1*) A society may, subject to the provisions of section 16, by an amendment of its by-laws, change its liability from limited to unlimited or unlimited to limited.

(*2*) No such amendment shall be registered by the Registrar unless he is satisfied—

(*i*) that sufficient notice has been given to every member of the society and to any person or class of persons whose interest will, in the opinion of the Registrar, be affected by the alteration, and

(*ii*) that with respect to every such member or person who, in the opinion of the Registrar, is entitled to object,—

(*a*) either his assent has been obtained to the change,

(*b*) or if he signifies his objection—

(*i*) he is allowed to withdraw his share if he is a member, or

(*ii*) his debt or claim has been discharged or has determined or has been secured to the satisfaction of the Registrar within three months from the date of the notice:

Provided that the Registrar may, in the case of any person or class of persons for special reasons, dispense with the notice required by this sub-section.]

[1] Section 16A was inserted by Bom. 28 of 1948, s. 10.

[1][CHAPTER III.

RIGHTS AND LIABILITIES OF MEMBERS.]

17. No person shall exercise the rights of a member of a society unless or until he has made such payment to the society in respect of membership, or acquired such interest in the society as may be prescribed by the rules or the by-laws of such society.

No rights of membership to be exercised till due payments are made.

18. (*1*) No member of any society shall have more than one vote in its affairs, provided that in the case of an equality of votes the chairman shall have a casting vote.

Votes of members.

[2][(*1A*) Where a share of a society is held jointly by more than one person, only the person whose name stands first in the share certificate shall have the right to vote.]

(*2*) A society which has invested any part of its funds in the shares of another society, may appoint one of its members to vote in the affairs of such other registered society.

19. (*1*) The transfer or charge of the share or interest of a member in the capital of a society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

Restrictions on transfer of share or interest.

(*2*) A member shall not transfer any share held by him or his interest in the capital or property of any society or any part thereof unless.

(*a*) he has held such share or interest for not less than one year ; [3]*

(*b*) the transfer or charge is made to the society or to a member of the society or to a person whose application for membership has been accepted by the society ; [4][and

(*c*) the committee has approved such transfer.]

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[5][CHAPTER IV.

DUTIES OF SOCIETIES.]

20. Every society shall have an address registered in accordance with the rules, to which all notices and communications may be sent and shall send notice in writing to the Registrar of any change in the said address within 30 days of such change.

Address of societies.

21. Every society shall keep open to inspection at all reasonable times at the registered address of the society—

Copy of Act, etc., to be open to inspection.

(*a*) a copy of this Act,

(*b*) a copy of the rules governing such society,

(*c*) a copy of the by-laws of such society, and

(*d*) a register of its members.

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[1] The words and figures "Chapter III—*Rights and Liabilities of Members*" were substituted for the words "*Rights and liabilities of members*" by Bom. 8 of 1936, s. 2.

[2] Sub-section (*1A*) was inserted by Bom. 28 of 1948, s. 11.

[3] The word "and" was deleted, *ibid.*, s. 12 (*1*).

[4] These words, brackets and letter were inserted, *ibid.*, s. 12 (*ii*).

[5] The words and figures "Chapter IV—*Duties of Societies*" were substituted for the words "*Duties of Societies*" by Bom. 8 of 1936, s. 2.

Audit.

22. (*1*) The Registrar shall by himself or by some person authorized by him in writing by general or special order in this behalf audit the accounts of every society once at least in every year.

(*2*) The audit under sub-section (*1*) shall include an examination of overdue debts, if any, the verification of cash balance and securities, and a valuation of the assets and liabilities of the society.

(*3*) The Registrar or other person auditing the accounts of any society shall have free access to the books, accounts and vouchers of such society and shall be allowed to verify its cash balances and securities.

The Directors, Managers, and other officers of the society shall furnish to the Registrar or other person appointed to audit the accounts of a society all such information as to its transactions and working as the Registrar or such person may require.

(*4*) The Registrar and every other person appointed to audit the accounts of a society shall have power, when necessary—

(*i*) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give valuable information in regard to any transaction of the society or the management of its affairs, or

(*ii*) to require the production of any book or document relating to the affairs of any cash or securities belonging to the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

[1][CHAPTER V.

PRIVILEGES OF SOCIETIES.]

Societies to be bodies corporate.

23. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Prior claim of society.

[2][24. (*1*)] Subject to any prior claim of [3][the Crown] in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent,

(*a*) any debt or outstanding demand owing to a society by any member or past member shall be a first charge (*i*) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member, and (*ii*) upon any cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture or workshops, godown or place of business, supplies to or purchase by such member or past member in whole or in part from any loan whether in money or goods given him by the society :

[4]* * * * * *

(*b*) any outstanding demands or dues payable to a housing society by any member or past member in respect of rent, shares, loans, or purchase money or any other rights or amounts payable to such society shall be a first charge upon his interest in the immovable property of the society.

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[1] The words and figures "Chapter V—*Privileges of Societies*" were substituted for the words "*Privileges of Societies*" by Bom. 8 of 1936, s. 2.

[2] Section 24 was numbered as sub-section (*1*) by Bom. 28 of 1948, s. 13 (*1*).

[3] The words "the Crown" were substituted for the word "Government" by the Adaptation Indian Laws Order in Council.

[4] The proviso was deleted by Bom. 28 of 1948, s. 13 (*2*).

[1][(*2*) No property or interest in property which is subject to a charge under sub-section (*1*) shall be transferred in any manner except by way of lease for a term not exceeding ten years without the previous permission of the society.

(*3*) Notwithstanding anything contained in any law, any transfer made in contravention of the provisions of sub-section (*2*) shall be void.

(*4*) Any person who in contravention of the provisions of sub-section (*2*) transfers any property which is subject to a charge under sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees.]

Charge on immovable property of members borrowing loans from certain societies.

[2][**24AA.** Notwithstanding anything contained in this Act or in any other law for the time being in force—

[3](*i*) any person who makes an application to a society of which he is a member for a loan shall, if he owns any land, make a declaration in the form prescribed by rules. Such declaration shall state that the applicant thereby creates a charge on the land owned by him and specified therein for the payment of the amount of the loan which the society may make to the member in pursuance of the application and for all future advances, if any, required by him which the society may make to him as such member subject to such maximum as may be determined by the society together with interest on such amount of the loan and advances ;]

Bom. XXV. III of 1948.

(*ii*) any person who has borrowed a loan from a society of which he is a member before the date of the coming into force of the Bombay Co-operative Societies (Amendment) Act, 1948, and who owns any land shall, as soon as possible, make a declaration in the form and to the effect referred to in clause (*i*) and no such person shall, unless and until he has made such declaration, be entitled to exercise any right as a member of the society ;

(*iii*) a declaration made under clause (*i*) or (*ii*) may be varied at any time by a member with the consent of the society in favour of which such charge is created ;

(*iv*) no member shall alienate the whole or any part of the [4][land] specified in the declaration made under clause (*i*) or (*ii*) [5][until the whole amount borrowed by the member together with interest thereon is paid in full] :

Provided that standing crops on any such [4][land] may be alienated with the previous permission of the society ;

(*v*) any alienation made in contravention of the provisions of clause (*iv*) shall be void ;

Bom. XXV. III of 1947.

(*vi*) subject to the prior claims of the Crown in respect of land revenue or any money recoverable as land revenue and to the charge, if any, created under an award made under the Bombay Agricultural Debtors Relief Act, 1947, there shall be a first charge in favour of the society on the [4][land] specified in the declaration made under clause (*i*) or (*ii*) for and to the extent of the dues owing by him on account of the loan ;

Bom. V of 1879.

(*vii*) notwithstanding anything contained in Chapter X-A of the Bombay Land Revenue Code, 1879, the Record of Rights maintained under the said Chapter shall also include the particulars of every charge on [4][land] created under a declaration under clause (*i*) or (*ii*).

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[1] Sub-section (*2*) (*3*) and (*4*) were inserted by Bom. 28 of 1948, s. 13 (*3*).
[2] Section 24AA was inserted, *ibid*, s. 14.
[3] Clauses (*i*) and (*ii*) were substituted by Bom. 14 of 1949, s. 3 (*a*).
[4] This word was substituted for the words "immovable property" and "property", *ibid*, s. 3 (*b*).
[5] These words were substituted for "until the loan is repaid in full", *ibid*, s. 3 (*c*).

[1][*Explanation.*—For the purposes of this section, 'society' shall mean a society of which majority of the members are agriculturists and which is—

(*a*) a Resource society the primary object of which is to obtain credit for its members; or

(*b*) any other class of societies specified in this behalf by the Provincial Government by a general or special order.]

Deduction from salary to meet society's claim in certain cases.

[2][**24A.** (*1*) A member of a society may execute an agreement in favour of the society providing that his employer shall be competent to deduct from the salary or wages payable to him by the employer such amount as may be specified in the agreement and to pay the amount so deducted to the sociey in satisfaction of any debt or other demand owing by the member to the society.

(*2*) On the execution of such agreement the employer shall, if so required by the society by a requisition in writing and so long as such debt or demand or any part of it remains unpaid, make the deduction in accordance with the agreement and pay the amount so deducted to the society.

(*3*) The provisions of this section shall also apply to all such agreements of the nature referred to in sub-section (*1*) as were in force on the date of the commencement of the Bombay Co-operative Societies (Amendment) Act, 1942.

(*4*) Nothing contained in this section shall apply to persons employed in Federal railways (within the meaning of the Government of India, Act, 1935), mines and oil-fields.] 26 Geo Ch.

Charge and set-off in respect of shares or interest of member.

25. A society shall have a charge upon the share or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus or profits payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.

Shares or interest not liable to attachment.

26. Subject to the provisions of section 25, the share or interest of a member in the capital of a society or [3][the share or interest of a member, or officer or servant of a society] in any provident fund established under section 41 of this Act shall not be liable to attachment or sale under any decree or order of a court of justice in respect of any debt or liability incurred by such member, [4][officer or servant] and neither the Official Assignee, under the [5]Presidency-towns Insolvency Act, 1909, III of 1909 nor a Receiver under the [5]Provincial Insolvency Act, 1920, shall be entitled to or have any claim on such share or interest. V of 1920.

Transfer of interest on death of member.

27. (*1*) On the death of a member of a society such society may within a period of one year from the date of such member transfer the share or interest of the deceased member to a person or persons nominated in accordance with the by-laws of the society, if duly admitted a member of the society, in accordance with the rules or the by-laws of the society, or if there is no person so nominated, to such person as may appear to the Committee to be the heir or legal representative of the deceased member if duly elected a member of the society, or may pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such, member's share or interest as ascertained in accordance with the rules or by-laws :

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[1] This Explanation was added by Bom. 14 of 1949, s. 3 (*d*).

[2] This section was inserted by Bom. 29 of 1942, s. 2, read with Bom. 28 of 1948, s. 2.

[3] These words were inserted by Bom. 28 of 1948, s. 15 (*i*).

[4] These words were inserted, *ibid.*, s. 15 (*ii*).

[5] *See* Central Acts.

Provided that such nominee, heir or legal representative, as the case may be, may require that payment shall be made by the society within one year from the death of the member of the value of the share or interest of such member ascertained as aforesaid.

(*2*) A society shall subject to the provisions of section 25 and unless prevented by an order of a competent court pay to such nominee, heir or legal representative, as the case may be, all other moneys due to the deceased member from the society.

(*3*) All transfers and payments made by a society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

28. The liability of a past member for the debts of a society as they existed at the time when he ceased to be a member, shall continue for a period of two years from the date of his ceasing to be a member. Liability of past member.

29. The estate of a deceased member shall be liable for a period of [1][two years] from the date of his decease for the debts of a society as they existed at the time of his death. Liability of the estates of deceased members.

30. Any register or list of members or shares kept by any society shall be *prima facie* evidence of any of the following particulars entered therein :— Register of members.

(*a*) the date at which the name of any person was entered in such register or list as a member;

(*b*) the date at which any such person ceased to be a member.

31. (*1*) A copy of any entry in any book, register or list regularly kept in the course of business in the possession of a society shall, if duly certified in such manner as may be prescribed by the rules, be admissible in evidence of the existence of the entry and shall be admitted as evidence of the matters and transactions therein recorded in every case where, and to the same extent to which, the original entry would, if produced, have been admissible to prove such matters. Admissibility of copy of entry as evidence.

(*2*) In the case of such societies as [2][the Provincial Government] by general or special order may direct no officer of a society shall in any legal proceedings to which the society is not a party be compelled to produce any of the society's books, the contents of which can be proved under sub-section (*1*), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the Court or a Judge made for special cause.

XVI of 1908.

32. Nothing in section 17, sub-section (*1*), clauses (*b*) and (*c*), of the [3]Indian Registration Act, 1908, shall apply to— Exemption from compulsory registration of instruments relating to shares and debentures of society.

(*1*) any instrument relating to shares in a society, notwithstanding that the assets of the society consist in whole or in part of immovable property; or

(*2*) any debenture issued by any society and not creating, declaring, assigning, limiting or extinguishing any rights, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(*3*) any endorsement upon or transfer of any debenture issued by any society.

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[1] The words "two years" were substituted for the words "one year" by B m. 28 of 1948, s. 16.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] *See* Central Acts.

Power to exempt from income tax, stamp duty, registration and court fees.

33. (*1*) The [1][Central Government], by notification in the [2][*Official Gazette*], may, in the case of any society or class of societies, remit the income-tax or super-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits or in respect of interest on securities held by the society.

(*2*) The [3][Government] by notification in the [4][*Official Gazette*] may, in the case of any society or class of societies, remit—

(*a*) the stamp-duty with which, under any law for the time being in force, instruments executed by or on behalf of a society or by an officer or member and relating to the business of the society, or any class of such instruments or awards of the Registrar or arbitrators under this Act are respectively chargeable; and

(*b*) any fee payable under the law of registration and of court fees for the time being in force.

[5][In this sub-section "Government" in relation to stamp-duty, means the Government which is the collecting Government for the purposes of the Indian Stamp Act, 1899, in relation to court fees means the Government which is the appropriate Government for the purposes of the Court Fees Act, 1870, and save as aforesaid means the Provincial Government.] II of 1899. VII of 1870.

Provincial Government may give loans or guarantee interest.

33A. With such safeguards as may be prescribed by rules in this behalf [6][the Provincial Government] may give loans to societies or guarantee the payment of [7][the principal debentures issued by them or of interest thereon or both.]

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[8][CHAPTER VI.

PROPERTY AND FUNDS OF SOCIETIES.]

Restrictions on loans.

34. (*1*) Except with the general or special sanction of the Registrar a society shall not make a loan to any person other than a member.

[9](*2*)* * * * * * *

(*3*) [6][The Provincial Government] may, by general or special order, prohibit or restrict the lending of money [10][on the security of moveable property or] on mortgage of immovable property by any society or class of societies.

Restrictions in borrowing.

35. A society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the rules or by the by-laws of the society.

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[1] The words "Central Government" were substituted for the words "Governor General in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Gazette of India*", *ibid.*

[3] The word "Government" was substituted for the words "Local Government", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] These words were inserted, *ibid.*

[6] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[7] These words were substituted for the words "interest on debentures issued by them" by Bom. 22 of 1935, s. 2.

[8] These words and figures "Chapter VI—"*Property and Funds of Societies*" were substituted for the words "*Property and Funds of Societies*" by Bom. 8 of 1936, s. 2.

[9] Sub-section (*2*) was deleted by Bom. 28 of 1948, s. 17 (*i*).

[10] These words were inserted, *ibid.*, s. 17 (*ii*).

36. Consumers', Producers' and Housing Societies may to the extent permitted by their by-laws trade with persons who are not members, but the transactions of a Resource society with persons other than members except as provided under section 34 or 35 shall be subject to such prohibitions and restrictions, if any, as [1][the Provincial Government] may by rules prescribe. Restrictions on other transactions with non-members.

37. A society may invest or deposit its funds— Investment of funds.

(*a*) in the Government Savings Bank ; or

(*b*) in any of the securities specified in section 20 of the [2]Indian Trusts Act, 1882 ; or

(*c*) in the shares or on the security of any other society, provided that no such investment shall be made in the shares of any society other than one with limited liability ; or

(*d*) with any bank or person carrying on the business of banking approved for this purpose by the Registrar ; or

(*e*) in any other mode permitted by the rules [3][or by general or special order of the Provincial Government].

38. No society shall pay a dividend to its members at a rate exceeding [4][6¼] per cent. Restrictions on dividend.

39. (*1*) Every society which does or can derive a profit from its transactions shall maintain a reserve fund. Reserve Fund.

(*2*) In the case of a Resource or Producers' society at least ¼th of the net profits of the society each year shall be carried to the reserve fund and in the case of any other society at least 1/10th of the net profits of the society each year shall be carried to the reserve fund, and such reserve fund may be used in the business of the society or may be invested, subject to the provisions of section 37, as [1][the Provincial Government] may by general or special order direct, or may, with the previous sanction of [1][the Provincial Government] be used in part for some public purpose likely to promote the objects of this Act or for some purposes of provincial or local interest.

[5][**39A.** Every society which pays a dividend to its members at a rate of 4 per cent. or more shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute at such rate as may be prescribed.] Contribution to educational fund of Bombay Provincial Co-operative Institute.

40. Subject to the provisions of section 38 the balance of the profits of a society after making the prescribed provision for the reserve fund [6][and contribution, if, any, to the educational fund of the Bombay Provincial Co-operative Institute] may, together with any available profits of past years be distributed among its members and in the case of Consumers' and Producers' societies, also among persons who are Restrictions on distribution of profits.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] *See* Central Acts.

[3] These words were added by Bom. 28 of 1948, s. 18.

[4] The figures "6¼" were substituted for the figures "10", *ibid.*, s. 19.

[5] Section 39A was inserted, *ibid.*, s. 20.

[6] These words were inserted, *ibid.*, s. 21.

not members, to the extent and under the conditions prescribed by the rules or by the by-laws of such societies, provided that :—

(*a*) in the case of a Resource society on a basis of unlimited liability in which the members do not hold shares, no distribution of profits shall be made without the general or special order of [1][the Provincial Government] in this behalf ; and

(*b*) in the case of a Resource society on a basis of unlimited liability in which the members hold shares, no such distribution of profits shall be made until 10 years from the date of registration of the society have elapsed.

Provident Fund.

41. Any society may establish a provident fund for its members [2][or officers or servants] out of contributions from such members [3][or officers or servants, as the case may be,] in accordance with by-laws made by the society in this behalf and may contribute to such provident fund from its net profits, after the prescribed payments have been made to the reserve fund, provided that such provident fund shall not be used in the business of the society but shall be invested under the provisions of section 37 ; and provided further, that no part of such provident fund shall be considered as an asset of the society.

Contribution to charitable purpose.

42. With the approval of the Bombay Central Co-operative Institute and after the payments prescribed by sub-section (*2*) of section 39 [4][and section 39A have been made] any society may—

(*a*) set aside a sum not exceeding 20 per cent. of its net profits, and

(*b*) utilize from time to time the whole of such sum in contributing to any public or co-operative purpose, or to a charitable purpose as defined in section 2 of the [5]Charitable Endowments Act, 1890. VI of 1890.

[6][CHAPTER VII.

INSPECTION OF AFFAIRS.]

Inquiry by Registrar.

43. (*1*) The Registrar may of his own motion by himself or by a person duly authorised by him in writing in this behalf hold an inquiry into the constitution, working and financial condition of a society.

(*2*) The Registrar shall hold such an inquiry as is contemplated in sub-section (*1*) of this section—

(*a*) on the requisition of a society, duly authorised by rules made in this behalf to make such requisiton, in respect of one of its members, such member being itself a society,

(*b*) on the application of a majority of the Committee of the society,

(*c*) on the application of ⅓rd of the members of the society.

(*3*) All officers and members of the society whose affairs are investigated shall furnish such information in their possession in regard to the affairs of the society as the Registrar or the person authorized by the Registrar may require.

(*4*) The result of any inquiry under this section shall be communicated to the society whose affairs have been investigated.

Inspection of books of indebted society.

44. (*1*) The Registrar may on the application of a creditor of a society inspect or direct some person authorized by him by order in writing in this behalf to inspect the books of the society :

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 28 of 1948, s. 22 (*i*).

[3] These words were inserted, *ibid.*, s. 22 (*ii*).

[4] These words, figures and letter were substituted for the words "have been made to the reserve fund", *ibid.*, s. 23.

[5] *See* Central Acts.

[6] These words and figures "Chapter VII—*Inspection of Affairs*" were substituted for the words "*Inspection of Affairs*" by Bom. 8 of 1936, s. 2.

Provided that—

(*a*) the applicant satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(*b*) the applicant deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(*2*) The Registrar shall communicate the result of any such inspection to the creditor.

Costs of inquiry.

45. Where an inquiry is held under section 43 or an inspection is made under section 44 the Registrar may apportion the costs, or such part of the costs, as he may think right, between the society, the members or creditor demanding the inquiry or inspection, the officers or former officers, and the members or past members of the society:

Provided that—

(*a*) no order of apportionment of the costs shall be made under this section unless the society or persons liable to pay the costs thereunder has or have been heard or has or have had a reasonable opportunity of being heard;

(*b*) the Registrar shall state in writing under his own hand the grounds on which the costs are apportioned.

Recovery of costs.

46. Any sum awarded by way of costs under section 45 may be recovered, on application by the Registrar to a Magistrate having jurisdiction in the place where the person from whom the money is claimable actually and voluntarily resides, or carries on business, by the distress and sale of any moveable property within the limits of the jurisdiction of such Magistrate belonging to such person, and such Magistrate shall proceed to recover the same in the same manner as if it were a fine imposed by himself.

Registrar to bring defects disclosed in inquiry or inspection to notice of society.

[1][**46A.** (*1*) If the result of any inquiry held under section 43 or an inspection made under section 44 discloses any defects in the working of a society the Registrar may bring such defects to the notice of the society and if the society is a member of a Federal society to the notice of the Federal society. The Registrar may also make an order directing the society or its officers or the Federal society to take such action as may be specified in the order to remedy the defects within the time specified therein.

(*2*) The Federal society or the society concerned may appeal against an order made by the Registrar under sub-section (*1*) to the Provincial Government within the time specified in the order.

(*3*) The Provincial Government may in deciding the appeal annul, reverse, modify or confirm the order of the Registrar.]

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[2][CHAPTER VIII.

LIQUIDATION AND ARBITRATION.]

Winding up.

47. If the Registrar, after an inquiry has been held under section 43 or after an inspection has been made under section 44 or on receipt of an application made by three-fourths of the members of a society present at a special general meeting, called for the purpose or of his own motion, in the case of a society that has not commenced working, or has ceased working, or possesses shares or members' deposits not exceeding Rs. 500, is of opinion that the society ought to be wound up he may issue an order directing it to be wound up, and when necessary, may appoint a liquidator for the purpose and fix his remuneration.

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[1] Section 46A was inserted by Bom. 28 of 1948, s. 24.

[2] The words and figures "Chapter VIII—*Liquidation and Arbitration*" were substituted for the words "*Liquidation and Arbitration*" by Bom. 8 of 1936, s. 2.

Society may be wound up if membership is reduced.

48. Where it is a condition of the registration of a society that it shall consist of at least ten members who are majors, the Registrar may by order in writing direct the society to be wound up, if at any time it is proved to his satisfaction that the membership has been reduced to less than ten such members.

Effect of liquidation of society on past member or on estate of deceased member.

[1][**48A.** Notwithstanding anything contained in sections 28 and 29, when a society is directed to be wound up under section 47 or 48, the liability of a past member and the liability of the estate of a deceased member of the society, as it existed on the date on which the society was directed to be wound up, shall continue until all the liabilities of the society are met.]

Effect of cancellation of registration.

[2]**49.** When the affairs of a society for which a liquidator has been appointed under section 47 have been wound up, or, where no liquidator has been appointed after two months from the date of an order under section 47, or after confirmation of such order in appeal, the Registrar shall make an order cancelling the registration of the society, and the society shall be deemed to be dissolved from the date of such order.

[3]* * * * * *

Powers of a liquidator.

50. A liquidator appointed under section 47 shall have power with the sanction of the Registrar to do all or any of the following things :—

(*a*) pay any class or classes of creditors in full ;

(*b*) make any compromise or arrangement with creditors or persons claiming to be creditors or having or alleging themselves to have any claim, present or future, whereby the society may be rendered liable ;

(*c*) to compromise all calls or liabilities to calls and debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, subsisting or supposed to subsist between the society and a contributory or alleged contributory or other debtor or person apprehending liability to the society and all questions in any way relating to or affecting the assets or the winding up of the society on such terms as may be agreed and take any security for the discharge of any such call, liability, debt, or claim and give a complete discharge in respect thereof ;

(*d*) from time to time to determine the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers to the assets of the society, such contribution including debts due from such members or persons ;

(*e*) to institute and defend suits and other legal proceedings on behalf of the society in the name of his office ;

(*f*) to issue requisitions under section 59 upon the Collector for the recovery as arrears of land revenue of any sum ordered by him to be recovered as dues from members, or as a contribution to the assets of the society or to the cost of liquidation ;

(*g*) to get disputes referred to arbitration ;

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[1] This section was inserted by Bom. 14 of 1949, s. 4.
[2] Section 49 (*1*) was renumbered as 49, *ibid.*, s. 5.
[3] Sub-section (*2*) of section 49 was deleted, *ibid.*

(*h*) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising out of such claims, and to pay rateably according to the amount of such debts, the surplus if any being applied in payment of interest from the date of liquidation at a rate to be fixed by the Registrar and not exceeding the contract rate;

(*i*) to determine by what persons and in what proportion the cost of the liquidation shall be borne;

(*j*) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society;

(*k*) to fix the time or times within which creditors shall prove their debts and claims or be included for the benefit of any distribution made before those debts or claims are proved;

(*l*) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same:

Provided that no liquidator shall determine the contribution, debt or dues to be recovered from [1][a member or] a past member or the representative of a deceased member unless opportunity has been given to such [2][member or] past member or to such representative to answer the claim.

Power of Registrar to assess damage against delinquent promoters, etc.

50A. (*1*) Where, in the course of [3][an audit under section 22 or an inquiry under section 43 or an inspection under section 44 or], the winding up of a society it appears that any person who has taken part in the organization or management of the society or any past or present chairman, secretary, member of the managing committee or officer of the society has misapplied or retained or become liable or accountable for any money or property of the society or has been guilty of misfeasance or breach of trust in relation to the society, the Registrar may, on the application of [4][the officer conducting the audit or holding the inquiry or inspection, or of] the liquidator or of any creditor or contributory, examine into the conduct of such person and [5][after giving reasonable opportunity to the person concerned to submit his explanation], make an order requiring him to repay or restore the money or property or any part thereof respectively with interest at such rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in regard to the misapplication, retainer, misfeasance or breach of trust as the Registrar thinks just.

(*2*) This section shall apply notwithstanding that the act is one for which the offender may be criminally responsible.

Bar of suit in winding up and dissolution matters.

51. Save in so far as is expressly provided in this Act no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act and when a winding up order has been made no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

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[1] These words were inserted by Bom. 28 of 1948, s. 26 (*a*).
[2] These words were inserted, *ibid.*, s. 26 (*b*).
[3] These words and figures were inserted, *ibid.*, s. 27 (*i*).
[4] These words were inserted, *ibid.*, s. 27 (*ii*).
[5] These words were inserted, *ibid.*, s. 27 (*iii*).

Disposal of surplus assets.

52. After all the liabilities including the paid-up share capital of a cancelled society have been met, the surplus assets shall not be divided amongst its members but they shall be devoted to any object or objects described in the by-laws of the society and when no object is so described to any object of public utility determined by the general meeting of the society and approved by the Registrar or they may in consultation with them either be assigned by the Registrar in whole or in part to any or all of the following :—

(*a*) an object of public utility of local or communal interest,

(*b*) a charitable purpose as defined in section 2 of the [1]Charitable Endowments Act, 1890, VI of 1890.

(*c*) the Bombay Central Co-operative Institute, or may be placed on deposit with a Central Co-operative Bank until such time as a new society with similar conditions is registered when with the consent of the Registrar such surplus may be credited to the reserve fund of such new society.

Surplus assets of housing society.

53. Where the society directed to be wound up is a housing society, its assets, both moveable and immovable, shall for the purposes of winding up or dissolution of the society jointly vest, subject to all rights and equities, in three persons of whom one shall be nominated by the Registrar, one shall be nominated by the said Society in a general meeting specifically called for the purpose and one shall be nominated by the Bombay Central Co-operative Institute. Such persons shall, for the purpose of winding up or dissolution of the society be Joint Liquidators and shall have all the powers of a liquidator under this Act. They may, with the sanction of the Registrar, continue the working of the society, or may, subject to his sanction and in consultation with the members of the society in a general meeting, reconstruct the society or may sell off the premises of the society to the best advantage of all interests concerned, and when all the liabilities of the society are met, may dispose of the surplus assets of the society if any, as provided in section 52.

Arbitration.

54. If any dispute touching the [2][constitution or] business of a society arises between members or past members of the society or persons claiming through a member or past member or between members or past members or persons so claiming and any officer, agent, or servant of the society [3][past or present,] or between the society or its committee, and any officer, agent, member or servant of the society [3][past or present], it shall be referred to the Registrar for decision by himself or his nominee or if either of the parties so desires, to arbitration of three arbitrators who shall be the Registrar or his nominee and two persons of whom one shall be nominated by each of the parties concerned.

A dispute shall include claims by a society for debts or demands due to it from a member or past member or the heirs or assets of a past member whether such debts or demands be admitted or not :

Provided that if the question at issue between a society and a claimant, or between different claimants, is one involving complicated questions of law and fact, the Registrar may, if he thinks fit, suspend proceedings in the matter until the

[1] *See* Central Acts.
[2] These words were inserted by Bom. 28 of 1948, s. 28.
[3] The words " past or present " were inserted by Bom. 16 of 1943, s. 2, with s. 2 of Bom. 28 of 1948.

question has been tried by a regular suit instituted by one of the parties or by the society. If no such suit is instituted within six months of the Registrar's order suspending proceedings the Registrar shall take action as laid down in paragraph 1 of this section.

Tribunal's power to modify, correct or remit award.

[1]**54A.** (*1*) In the case of any award made by the arbitrators under section 54, the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing—

(*i*) modify the award, or

(*ii*) set it aside and order that the dispute shall be referred back to the arbitrators in the manner provided under the said section :

Provided that no such order shall be made—

(*a*) after the issue of a certificate under section 59 for the execution of the award, and

(*b*) except on any of the following grounds :—

(*i*) an objection to the legality of the award is apparent on the face of it, or

(*ii*) the award has been vitiated in consequence of corruption or misconduct on the part of any of the arbitrators, or

(*iii*) the award is in any way perverse.

(*2*) In making an order under sub-section (*1*) that the dispute shall be referred back to arbitration, the Tribunal may direct that all or any of the arbitrators who made the award shall not act again as arbitrators for deciding the dispute.

(*3*) Where a dispute is referred back to arbitration under sub-section (*1*), the arbitrators shall make a fresh award within such time as may be fixed by the Tribunal. If the arbitrators fail to make a fresh award within the time so fixed, the Registrar or his nominee shall decide the dispute.

(*4*) When the award is made by the arbitrators under sub-section (*3*), the Tribunal may, on the application of any of the parties to the award or otherwise for reasons to be recorded in writing—

(*i*) modify the award, or

(*ii*) pass such order thereon as it deems just.

To such modification or order the proviso to sub-section (*1*) shall apply.]

Attachment before award.

55. Where a dispute has been referred to the Registrar under section 54 or to arbitration under clause (*g*) of section 50, the Registrar or his nominee or the arbitrators, as the case may be, if satisfied on inquiry or otherwise, that a party to such arbitration with intent to delay or obstruct the execution of any award that may be made,—

(*a*) is about to dispose of the whole or any part of his property, or

(*b*) is about to remove the whole or any part of his property from the jurisdiction of the Registrar,

may unless adequate security is furnished direct the conditional attachment of the said property : and such attachment shall have the same effect as if made by a competent Civil Court.

[1] Section 54A was substituted for the original by Bom. 28 of 1948, s. 29.

Appeal against decision of Registrar and his nominee.

[1][56. Any party aggrieved by any decision of the Registrar or his nominee under section 54 or sub-section (*3*) of section 54A or an order passed under section 55 by the Registrar or his nominee or arbitrator may, within one month from the date of the decision or order, appeal to the Tribunal]:

[2][Provided that—

(*a*) any appeals filed on or after the 1st day of April 1948 before the Registrar against the decision or order of his nominee made or passed under section 54, 54A or 55 shall be and are hereby transferred for decision to the Tribunal and shall be disposed of by the Tribunal, as if they were instituted before it under this section;

(*b*) all appeals which would have been filed before the Tribunal against the decision or order of the Registrar or his nominee made or passed under the aforesaid sections, but which could not be filed only on the ground that the Tribunal was not constituted, may be filed before the Tribunal within a period of one month from the commencement of the Bombay Co-operative Societies (Amendment) Act, 1949, or before the 15th day of June 1949, whichever date is later, notwithstanding the fact that the period of one month provided by this section may have expired.] Bom. XIV of 1949.

Finality of order.

57. [3]* * * * The award of the arbitrators or a decision by the Registrar or his nominee under section 54 [4][or 54A] shall not be liable to be called in question in any civil or revenue court.

Powers to enforce attendance.

58. Wherever in this Act it is provided that the Registrar or person duly authorized by general or special order in writing by the Registrar in this behalf shall hold an inquiry under section 43 or shall make an inspection under section 44 or shall wind up a society or shall arbitrate, such Registrar, or person authorized, as the case may be, shall have the power to summon and enforce the attendance of witnesses including the parties interested or any of them and to compel them to give evidence, and to compel the production of documents by the same means and as far as possible in the same manner as is provided in the case of a civil court by the Code of Civil Procedure, 1908. V of 1908.

Money how recovered.

59. (*1*) Every order passed by a liquidator under section 50, [5][or by the Registrar under sub-section (*1*) of section 50A] or by the Registrar or his nominee or arbitrators on disputes referred to him or them under clause (*g*) of section 50 or under section 54 [6][or under sub-section (*3*) of section 54A], every order passed in appeal under section 56, [7][every order passed in revision under sub-section (*6*)

[1] Section 56 was substituted for the original by Bom. 28 of 1948, s. 30.

[2] This proviso was added by Bom. 14 of 1949, s. 6.

[3] The sentence "An order passed in appeal under section 56 shall be final and conclusive" was deleted by Bom. 28 of 1948, s. 31.

[4] The word, figures and letter "or 54A" were inserted by Bom. 17 of 1936, s. 4.

[5] These words, figures, letter and brackets were inserted by Bom. 28 of 1948, s. 32 (*i*).

[6] The words, figures and letter "or under sub-section (*3*) of section 54A" were inserted by Bom. 17 of 1936, s. 5 (*i*).

[7] These words, figures, letter and brackets were inserted by Bom. 28 of 1948, s. 32 (*ii*).

of section 63A] and every order passed by [1][the Provincial Government] in appeal against orders passed under [2][section 50] shall, if not carried out—

[3][(*a*) on a certificate signed by the Registrar or a liquidator, be deemed to be a decree of a Civil Court and shall be executed in the same manner as a decree of such Court; or

(*b*) be executed] according to the law and under the rules for the time being in force for the recovery of arrears of land revenue, provided that any application for the recovery in such manner of any such sum shall be made to the Collector and shall be accompanied by a certificate signed by the Registrar or by an Assistant Registrar to whom the said power has been delegated by the Registrar.

[4](*2*) * * * * *

[5][**59AA.** Any private transfer or delivery of, or encumbrance or charge on, property made or created after the issue of the certificate of the Registrar, Liquidator, or Assistant Registrar, as the case may be, under section 59 shall be null and void as against the society on whose application the said certificate was issued.] Private transfer of property made after issue of certificate void against society.

[6][**59A.** (*1*) When in execution of an order sought to be executed under section 59, any property cannot be sold for want of buyers, if such property is in the occupancy of the defaulter or of some person on his behalf or of some person claiming under a title created by the defaulter subsequently to the issue of the certificate of the Registrar, Liquidator or Assistant Registrar under clause (*a*) or (*b*) of sub-section (*1*), the Court or the Collector, as the case may be, may, with the previous consent of the Registrar, direct that the said property or any portion thereof shall be transferred to the society which has applied for the execution of the said order and that the said property or the portion shall be delivered to the society in the prescribed manner. Transfer of property which cannot be sold.

(*2*) Subject to such rules as may be made in this behalf and to any rights, encumbrances, charges or equities lawfully subsisting in favour of any other person, such property or portion thereof shall be held by the said society on such terms and conditions as may be agreed upon between the Court or the Collector, as the case may be, and the said society.

[7]* * * * *

[8][**59B.** (*1*) Notwithstanding anything contained in sections 54 and 59, on an application made by a land mortgage bank for the recovery of arrears of any sum advanced by it to any of its members [9][or by a resource society for the recovery of arrears of any sum advanced by it to any of its members on account of the financing of crops or seasonal finance] and on its furnishing a statement of accounts in respect of the arrears, the Registrar may, after making such enquiries as he deems fit, grant a certificate for the recovery of the amount stated therein to be due as arrears. Recovery of moneys due to land mortgage bank.

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[1] The words "Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These word and figures were substituted, for the words, figures, letter and brackets "sections 50 54 or sub-section (*3*) of section 54A" by Bom. 28 of 1948 s. 32 (*iii*).

[3] This portion was substituted for the portion beginning with the word "be executed" and ending with the brackets and letter "(*b*)" by Bom. 16 of 1943, s. 3, read with s. 2 of Bom. 28 of 1948.

[4] Sub section (*2*) was repealed by Bom. 22 of 1935, s. 3.

[5] Section 59AA was inserted by Bom. 28 of 1948, s. 33.

[6] Section 59A was inserted by Bom. 22 of 1935, s. 4.

[7] The proviso was deleted by Bom. 28 of 1948, s. 34.

[8] Section 59B was inserted by Bom. 16 of 1943, s. 4, read with s. 2 of Bom. 28 of 1948.

[9] These words were inserted by Bom. 28 of 1948, s. 35 (*i*).

(2) A certificate granted by the Registrar under sub-section (*1*) shall be final and conclusive. The arrears stated to be due therein shall be recoverable according to the law for the time being in force for the recovery of land revenue.

(*3*) It shall be lawful for the Collector to take precautionary measures authorised by sections 140 to 144 of the Bombay Land Revenue Code, 1879, until the arrears due to the land mortgage bank [1][or the resource society] together with interest and any incidental charges incurred in the recovery of such arrears are paid or security for payment of such arrears is furnished to the satisfaction of the Registrar. Bom. V of 1879.

Explanation.—For the purposes of this section—

[2](*1*) a land mortgage bank means the Bombay Provincial Co-operative Land Mortgage Bank or any other co-operative land mortgage bank which is registered under this Act and is a member of that bank.

[3](*2*) "financing of crops" and "seasonal finance" shall have the meanings given to them by the Bombay Agricultural Debtors Relief Act, 1947]. Bom. XXVIII of 1947.

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[4][CHAPTER IX.

OFFENCES.]

Offences.

60. It shall be an offence under this Act if—

Default by a society, officer or member.

(*a*) a society with a working capital of Rs. 50,000 or more or an officer or member thereof fails without any reasonable excuse to give any notice, send any return or document, do or allow to be done anything which the society, officer or member is by this Act required to give, send, do or allow to be done; or

Wilful neglect or default by a society, etc.

(*b*) a society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Registrar or other person duly authorised by him in writing in this behalf; or

Wilful furnishing of false information.

(*c*) a society or an officer or member thereof wilfully makes a false return or furnishes false information; or

Disobedience of summons, requisition or order.

(*d*) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorized to do so under the provisions of this Act.

Penalty for officer sanctioning benami loans.

[5][**60A.** Any officer of a society who wilfully recommends or sanctions, for his own personal use or benefit, loan in the name of any other person shall, on conviction, be punishable with fine which may extend to five hundred rupees.]

Penalty for offences not otherwise provided for.

61. Every society, officer or member of a society or other person guilty of an offence under this Act for which no penalty is expressly provided herein shall be liable to a fine not exceeding Rs. 50.

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[1] These words were inserted by Bom. 28 of 1948 s. 35 (*ii*).
[2] The figure and brackets "(1)" were inserted, *ibid.*, s. 35 (*iii*) (*a*).
[3] These brackets, figures and words were inserted, *ibid.*, s. 35 (*iii*) (*b*).
[4] The words and figures "Chapter IX—Offences" were substituted for the word "Offences" by Bom. 8 of 1936, s. 2.
[5] Section 60A was inserted by Bom. 28 of 1948, s. 36.

62. (*1*) No person other than a registered society shall without the sanction of [1][the Provincial Government] trade or carry on business under any name or title of which the word "co-operative" or its vernacular equivalent forms part:

Prohibition of the use of the word "co-operative".

Provided that nothing in this section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which this Act comes into operation.

(*2*) Whoever contravenes the provisions of this section shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

63. (*1*) No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this Act.

Cognizance of offences.

V of 1898. (*2*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, every offence under this Act shall, for the purposes of the said Code, be deemed to be non-cognizable.

(*3*) No prosecution under this Act shall be lodged without the previous sanction of the Registrar, which shall not be given except after hearing the party concerned.

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[2][CHAPTER X.

APPEALS AND REVISION.]

Bombay Co-operative Tribunal.

[3]**63A.** (*1*) The Provincial Government shall constitute a Tribunal, called the Bombay Co-operative Tribunal, to exercise the functions conferred on the Tribunal by or under this Act.

(*2*) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

(*3*) Any vacancy in the membership of the Tribunal shall be filled by the Provincial Government.

(*4*) Subject to the previous sanction of the Provincial Government, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made thereunder, for regulating its procedure and the disposal of its business.

(*5*) The regulations made under sub-section (*4*) shall be published in the *Official Gazette*.

(*6*) The Tribunal may call for and examine the record of any proceedings in which an appeal lies to it for the purpose of satisfying itself as to the legality or propriety of any decision or order passed. If in any case it shall appear to the Tribunal that any such decision or order should be modified, annulled or reversed, the Tribunal may pass such order thereon as to it may seem fit.

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[1] The words "the Provincial Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words and figures "Chapter X—Appeals and Revision" were substituted for the words "Appeals and Revision" by Bom. 8 of 1936, s. 2.

[3] Section 63A was inserted by Bom. 28 of 1948, s. 37.

(7) An order passed in appeal, or in revision under sub-section (6), by the Tribunal shall be final and conclusive and shall not be liable to be called in question in any civil or revenue court.]

Appeals.

64. An appeal against an order or decision of or sanctioned by the Registrar under section 10, 16, 45, 47, 50, 50A, [1]* * may be made by any party aggrieved or affected by the order or decision to [2][the Provincial Government] within two months of the date of the communication of the order.

Power of Provincial Government and the Registrar to call for proceedings of Subordinate Officers and to pass orders thereon.

64A. [2][The Provincial Government] and the Registrar may call for and examine the record of any inquiry or the proceedings of any officer subordinate to them [2][except those referred to in sub-section (6) of section 63A] for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case, it shall appear to [2][the Provincial Government] or the Registrar that any decision or order or proceedings so called for should be modified, annulled or reversed, [2][the Provincial Government] or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit.

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[4]CHAPTER XI.

[6]* FARMING SOCIETIES.]

Application of this Chapter.

[7][**64B.** This Chapter shall apply to [6]* Farming Societies:

Provided that the Provincial Government may, by general or special order, direct that the provisions of this Chapter shall also apply to any other class of societies and thereupon they shall apply as if such societies were [6]* Farming Societies.]

Definitions.

64C. In this chapter, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Board constituted under section 64D;

[8]* * * * * *

(*c*) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture, and includes any officer appointed by [2][the Provincial Government] to perform the duties of the Director of Agriculture under this Act;

(*d*) "Inquiry Officer" means an officer appointed to hold an inquiry under this Chapter;

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[1] The figures, words, brackets and letter "54, or sub-section (3) of section 54A" were deleted by Bom. 28 of 1948, s. 38.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] These words, brackets, figures and letter were inserted by Bom. 28 of 1948, s. 39.

[4] Chapter XI was inserted by Bom. 8 of 1936, s. 3.

[5] These words were substituted for the words "Crop Protection Societies" by Bom. 28 of 1948, s. 40.

[6] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (1).

[7] Section 64B was substituted for the original by Bom. 28 of 1948, s. 41.

[8] Clause (*b*) was deleted by Bom. 14 of 1949, s. 7 (2).

(*e*) "Owner" includes an owner in severalty in common or joint and includes also an occupant as defined in the Bombay Land Revenue Code, 1879, a permanent tenant or tenant holding a lease for a period of not less than ten years and a mortgagee in possession.

Bom. V of 1879.

64D. (*1*) For the purposes of this Chapter there shall be constituted a Board consisting of the Registrar and the Director of Agriculture. Constitution of Board.

(*2*) If there is a difference of opinion between the members of the Board regarding any question under the provisions of this Chapter, such question shall be referred to [1][the Provincial Government] and shall be determined in accordance with the decision of [1][the Provincial Government].

64E. (*1*) The Board shall appoint an Inquiry Officer for the purpose of holding inquiries under this Chapter. Appointment of an Inquiry Officer and his powers.

(*2*) For the purpose of such inquiries, the Inquiry Officer shall have—

(*a*) all the powers of the Registrar under section 58,

(*b*) power to enter upon, survey and take levels of lands proposed to be included in the scheme, to dig or bore into subsoil and to do all acts necessary for the purpose of the inquiry.

64F. (*1*) Persons interested in a [2][3* farming scheme] may make an application to the Registrar for the registration of a [4][3* Farming society.] Such application shall be made in accordance with the provisions of section 9 and shall specify the area affected by the scheme. It shall be accompanied by— Preliminary proceduro.

(*a*) a detailed description and estimate of the cost of such scheme;

(*b*) the names of such of the owners of the lands to be included in the scheme as may have given their consent to the making of the scheme; and

(*c*) such other particulars as may be prescribed by rules.

(*2*) The application together with its accompaniments shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate.

64G. No [4][3* Farming society] shall be registered under section 10, unless the Board is satisfied, after such inquiry as it thinks necessary, that the scheme proposed by the society is feasible and that not less than 66 per cent. of the owners [5][in possession of not less than 75 per cent. in aggregate] of the land proposed to be included in the scheme have given their consent to the making of the scheme. For this purpose the Board shall record or cause to be recorded— Registration.

(*a*) a plan showing the area affected by the proposed scheme and the surrounding lands as shown in the map or maps of the village or villages affected.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words "crop protection scheme" by Bom. 28 of 1948, s. 43.

[3] The word "better" was deleted by Bom. 14 of 1949, s. 7 (*3*).

[4] These words were substituted by Bom. 28 of 1948, s. 40.

[5] These words and figures were substituted for the words and figures "owning in aggregate not less than 75 per cent." *ibid.*, s. 44.

(b) an examination of the proposed scheme, with any amendments therein proposed by the Board;

(c) an extract from the record of rights showing the names of the owners of the lands, and the areas of the lands to be included in the scheme as approved by the Board;

(d) statements of such of the owners of such lands as consent to the making of such scheme signed by such owners before the Board or such officer as may be prescribed by rules;

(e) a detailed estimate of the costs of such scheme;

(f) a detailed statement showing how the cost is proposed to be met.

Publication of the scheme and inviting claims and objections.

64H. If the society is registered, the scheme shall be published along with the plans, in the village or villages and at the headquarters of the taluka within the limits of which the lands proposed to be included in the scheme are situate, together with a general notice inviting claims, if any. Separate notices shall, as far as possible, also be served on all owners of lands affected by the scheme and on all persons believed to be interested in the said lands. Such general and separate notices shall require all persons affected by the scheme who make any claims to appear personally or by agent before the Inquiry Officer at a time and place therein mentioned (such time not being earlier than fifteen days after the date of the publication of the scheme).

Inquiry by the Inquiry Officer.

64I. On the date fixed in the notices issued under section 64H or any other day to which the inquiry has been adjourned, the Inquiry Officer shall proceed to inquire into the claims (if any) which may have been made pursuant to the notices and shall hear and decide any other matter which may be required to be heard and decided by or under the provisions of this Chapter.

Decision of disputed claim.

64J. (1) If there is a dispute as to the ownership or possession of any piece of land proposed to be included in the scheme, the Inquiry Officer shall decide the dispute in accordance with the entries relating to such land in the Revenue records kept under any law for the time being in force. If there is no such record, or if in the opinion of the Inquiry Officer the entries in the Revenue record are inaccurate or inconclusive, he shall refer the matter to the Collector for decision. When the Collector decides such dispute, he shall communicate his decision to the Inquiry Officer and such decision shall, subject to the provisions of sub-section (2), be final for the purpose of the inquiry under this Chapter.

(2) In the event of a civil court passing a decree which is inconsistent with such decision, such decision shall be corrected, modified or rescinded in accordance with such decree after such decree has been brought to the notice of the Inquiry Officer or the Board either by the civil court or by some person affected by such decree.

Report of Inquiry Officer.

64K. (1) After the inquiry under section 64I is completed, the Inquiry Officer shall make a report to the Board containing the following particulars:—

(i) the names of all the owners of lands affected by the scheme and the nature and extent of the right or interest of each in respect of such land;

(ii) the names of all persons whose rights or liabilities are affected and the manner in which they are affected by the scheme;

(iii) a detailed estimate of the net cost of the scheme to be borne by the society;

(iv) a detailed estimate of the amounts of compensation to be paid to, or the amounts to be recovered from, persons affected by the scheme;

(v) the manner in which recurring costs of the maintenance of and other expenses incidental to, the scheme shall be fixed and recovered;

(vi) any other particulars prescribed by or under the Act or the rules.

(*2*) Such report shall be published in the village or villages and at the headquarters of the taluka within the limits of which the lands included in the scheme are situate and separate notice of such report shall as far as practicable be given to all persons mentioned in clause (*ii*) of sub-section (*1*).

(*3*) Any person aggrieved by the report of the Inquiry Officer may appeal to the Board.

Board may sanction scheme with or without modification or may refuse to give sanction.

64L. (*1*) On receipt of the report of the Inquiry Officer the Board may, in consultation with the Collector, after deciding such appeals as may have been made under section 64K and making such further inquiry as it may think fit, either sanction with or without modifications or refuse to give sanction to the scheme.

Appeal.

(*2*) Any person aggrieved by the decision of the Board may, within a period of the thirty days from the date of such decision, appeal to [1][the Provincial Government], who may pass such order as they deem fit.

Scheme to become final on publication.

(*3*) If an appeal is made within the period prescribed in sub-section (*2*) and [1][the Provincial Government] decide to sanction the scheme with or without modifications, the scheme as sanctioned by [1][the Provincial Government], or, if no appeal is made within the period aforesaid, the scheme as sanctioned by the Board, shall be published in the [2][*Official Gazette*] and in any other way which may be prescribed and shall, on such publication, be final.

Effect of scheme.

64M. On the day on which the scheme as sanctioned is published under section 64L, it shall come into force and all the owners of lands included therein, whether they are members of the society or not, shall have such rights and shall be subject to such liabilities as are conferred or imposed on them under the scheme.

Power to enforce scheme.

64N. On and after the day on which the scheme comes into force, the [3][[4]* Farming society] concerned may, after giving the prescribed notice and in accordance with the provisions of the scheme, execute any work which it is the duty of any person to execute under the scheme. Any expense incurred by the society under this section may be recovered from the persons in default in the manner prescribed in section 64Q.

Contribution towards the costs of the scheme.

64O. (*1*) The costs of the scheme shall be met wholly or in part by a contribution to be levied by the society from each owner of land affected by the scheme including those who may have refused to become members of the society in accordance with the decision of the Board.

(*2*) The owner of the land affected by the scheme shall be primarily liable for the payment of the contribution leviable in respect of such land.

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[1] The words, "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "Better Farming Society" were substituted for the words "Crop Protection Society" by Bom. 28 of 1948, s. 40.

[4] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (*3*).

Dues of [1][2*Farming societies] to be first charge.

64P. Subject to the provisions of section 24, any outstanding demands or dues payable to a [1][2 * Farming society] by any member or past member in respect of any rent, shares, loans, contributions, or any other rights or amounts payable to such society shall be a first charge upon his interest in the crops or other agricultural produce on the land included in the scheme.

Recovery of arrears.

64Q. Any some due to a society under the provisions of this Chapter shall, on application for its recovery being made by such society, be recoverable by the Collector according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

Power to exempt Farming societies from provisions of Chapter XI.

[3][**64R.** (*1*) Notwithstanding anything contained in section 64B, the Provincial Government may, by general or special order to be published in the *Official Gazette*, exempt any Farming society or class of such societies from any of the provisions of Chapter XI.

(*2*) Any Farming society in respect of which a certificate of registration has been issued by the Registrar under section 10 before the date on which the Bombay Co-operative Societies (Amendment) Act, 1949, comes into force, shall be deemed to have been validly registered, notwithstanding that any of the provisions of Chapter XI as to registration have not been complied with.] Bom. XIV of 1949.

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[4][CHAPTER XII.

MISCELLANEOUS.]

Recovery of sums due to the Crown.

65. (*1*) All sums due from a society or from an officer or member or past member of a society as such to [5][the Crown], may be recovered according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(*2*) Sums due from a society to [5][the Crown] and recoverable under sub-section (*1*) may be recovered, firstly, from the property of the society; secondly, in the case of a society of which the liability of the members is limited, from the members or past members subject to the limit of their liability; and, thirdly in the case of other societies, from the members or past members.

(*3*) The liability of past members shall in all cases be subject to the provisions of section 28.

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[1] The words "Better Farming Societies" were substituted for the words "Crop Protection Societies" by Bom. 28 of 1948, s. 40.

[2] The word "Better" was deleted by Bom. 14 of 1949, s. 7 (*3*).

[3] This section was inserted, *ibid.*, s. 8.

[4] The words and figures "Chapter XII—Miscellaneous" were substituted for the word "Miscellaneous" by Bom. 8 of 1936, s. 4.

[5] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

66. Notwithstanding anything contained in this Act, the [1][Provincial Government] may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration. Power to exempt societies from conditions as to registration.

67. [1][The Provincial Government] may, by general or special order to be published in the [2][*Official Gazette*], exempt any society or class of societies from any of the provisions of this Act, or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order; provided that no order to the prejudice of any society shall be passed without an opportunity being given to such society to represent its case. Power to exempt societies from provisions of Act.

VII of 1913. **68.** The provisions of the [3]Indian Companies Act of 1913, shall not apply to societies, registered under this Act. Indian Companies Act not to apply.

69. Every Co-operative Society registered outside the Bombay Presidency, which has or establishes a branch or place of business in the Bombay Presidency shall within six months from the commencement of this Act or from the establishment of such branch or place of business, file with the Registrar a certified copy of the by-laws and amendments and, if these are not written in the English language, a certified translation in English thereof, and shall submit to the Registrar such returns and information as are submitted by similar societies in the Bombay Presidency in addition to those submitted to the Registrar of the Province where it is registered. Branches, etc. of societies outside the Presidency.

70. No suit shall be instituted against a society or any of its officers in respect of any act touching the business of the society until the expiration of two months next after notice in writing has been delivered to the Registrar, or left at his office, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left. Notice necessary in suits.

71. (*1*) [1][The Provincial Government] may, for the whole or any part of the presidency and for any society or class of societies, make rules to carry out the purposes of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may—

(*a*) subject to the provisions of section 6, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(*b*) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] See Central Acts.

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(*c*) prescribe the matters in respect of which a society may or shall make by-laws and the procedure to be followed in making, altering and abrogating by-laws and the conditions to be satisfied prior to such making, alteration or abrogation;

(*d*) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(*e*) provide for ascertaining the value of a deceased member's share or interest;

(*f*) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(*g*) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the Committee and other officers;

[1][(*ga*) prescribe the manner of giving notice of the preliminary resolution under sub-section (*2*) of section 15A];

(*h*) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts, and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;

(*i*) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted;

(*j*) provide for the persons by whom and the form in which copies of documents or entries in books of societies may be certified, and for the charges to be levied for the supply of such copies;

(*k*) provide for the formation and maintenance of a register of members, and where the liability of the members is limited by shares, of a register of shares;

(*l*) prescribe the payments to be made and the conditions to be complied with by members applying for loans, and the period for which loans may be made, and the amount which may be lent to an individual member;

(*m*) prescribe the prohibitions and restrictions subject to which societies may trade [2][or transact business] with persons who are not members;

(*n*) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society;

[3][(*na*) prescribe the rate at which a society shall contribute towards the educational fund of the Bombay Provincial Co-operative Institute];

(*o*) prescribe the extent to which a society may limit the number of its members;

(*p*) prescribe the conditions under which profits may be distributed to the members of a society and the maximum rate of dividend which may be paid by societies;

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[1] Clause (*ga*) was inserted by Bom. 28 of 1948, s. 45 (*1*).

[2] The words "or transact business" were inserted by Bom. 8 of 1930, s. 5 (*a*).

[3] Clause (*na*) was inserted by Bom. 28 of 1948, s. 45 (*2*).

(*q*) prescribe the procedure to be followed in presenting and disposing of appeals;

[1][(*qa*) prescribe the qualifications of the members of the Tribunal;]

(*r*) provide for securing that the share capital of any society shall be variable in such a way as may be necessary to secure that shares shall not appreciate in value and that necessary capital shall be available for the society as required;

(*s*) provide that persons qualified under the by-laws of a society shall not be excluded from membership without due cause;

(*t*) prescribe the procedure to be followed by a liquidator appointed under section 47;

(*u*) prescribe the mode of appointing an arbitrator or arbitrators and the procedure to be followed in proceedings before the Registrar or such arbitrator or arbitrators and for fixing and levying the expenses of determining the dispute;

(*v*) provide for the issue and service of processes and for proof of service thereof;

(*w*) provide for the writing off of bad debts;

(*x*) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

(*y*) provide for the withdrawal and expulsion of members and for the payments to be made to them and for the liabilities of past members;

(*z*) provide for the nomination of a person to whom the interest of a deceased member may be paid or transferred;

(*aa*) prescribe the cases in which an appeal shall lie from the order of a liquidator appointed under section 47;

(*bb*) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same;

(*cc*) prescribe the procedure to be followed for the custody of property attached under section 55;

(*dd*) provide for the payment of contributions at such rates and subject to such conditions as may from time to time be prescribed by co-operative societies to any provident fund which may be established for the benefit of officers and servants employed by them; [2]*

(*ee*) prescribe the period and terms under which Government aid may be given to co-operative societies and the terms under which [3][the Provincial Government] may guarantee the payment of [4][the principal of and] interest on debentures issued by registered societies;

[5][(*ff*) prescribe the particulars to be furnished by the persons applying for the registration of a Crop Protection Society under section 64F;

(*gg*) prescribe the officer before whom the statements of owners referred to in section 64-G may be signed;

(*hh*) prescribe the manner in which the inquiry shall be held by the Board or the Inquiry Officer under Chapter XI;

(*ii*) prescribe the particulars to be mentioned in an Inquiry Officer's report under clause (*vi*) of sub-section (*1*) of section 64-K;

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[1] Clause (*qa*) was inserted Bom. 28 of 1948, s. 45 (*3*).

[2] The word "and" was omitted by Bom. 8 of 1936, s. 5 (*b*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "the principal of and" were inserted by Bom. 22 of 1935, s. 5 (*1*).

[5] Clauses (*ff*), (*gg*), (*hh*), (*ii*), (*jj*) and (*kk*) were inserted by Bom. 8 of 1936, s. 5 (*c*).

(*jj*) prescribe the manner in which the scheme shall be published otherwise than in the [1][*Official Gazette*] under sub-section (*3*) of section 64-L;

(*kk*) provide for any other matter which is or may be prescribed or for which no provision exists and provision is, in the opinion of [2][the Provincial Government], necessary for the purpose of carrying out a crop protection scheme.]

[3][(*ll*) prescribing the manner in which any property shall be delivered to, and the terms and conditions subject to which such property shall be held by, a society under section 59A.]

(*3*) [2][The Provincial Government] may, subject to such conditions, if any, as it thinks fit, delegate all or any of its powers to make rules under this section to any authority specified in the order of delegation.

(*4*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*5*) The rules so made shall be laid on the table of [4][each of the Chambers of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [5][by a resolution in which each of the Chambers concurs at the said next session].

Saving of existing societies.

72. (*1*) Every society now existing which has been registered under the Cooperative Credit Societies Act, 1904, or under the Co-operative Societies Act, 1912, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded. X of 1904. II of 1912.

(*2*) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted, under the said Acts shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

Construction of references to Co-operative Societies Act, 1912 in enactments.

[6][**72A.** All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in British India and for the time being in force in the Presidency of Bombay shall, in the application, to the said Presidency, of any such enactment, be read and construed as references to this Act and anything done or any proceeding commenced in pursuance of any such enactment on or after the date on which this Act shall have come into operation shall be deemed to have been done or to have been commenced and to have had effect as if the reference in such enactment to the Co-operative Societies Act, 1912, had been the reference to this Act, and no such thing or proceeding shall be deemed to have been invalid on the ground that such enactment did not refer to this Act.] II of 1912. II of 1912.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[3] This clause, which was inserted by Bom. 22 of 1935, s. 5 (*2*) as clause (*ff*), was relettered as clause (*ll*) by Bom. 24 of 1936, s. 2, Sch.

[4] The words "each of the Chambers of the Provincial Legislature" were substituted for the words "the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[5] The words "by a resolution in which each of the Chambers concurs at the said next session" were substituted for the words "by a resolution of the said Council tabled at its next session", *ibid.*

[6] This section was inserted by Bom. 8 of 1933, s. 2.

[1]72B. Where any property is handed over to any society in pursuance of the provisions of sub-section (*2*) of section 59 prior to its repeal, such transfer to the society shall be deemed to be or to have been invalid and the validity of any term or condition of such transfer agreed between the Collector and the society under the said sub-section or of any rights or liabilities lawfully arising out of such transfer, term or condition shall not be deemed to be or to have been affected by the repeal of the said sub-section or by reason only of the fact that such property was not attached in execution of an order referred to in sub-section (*1*) of the said section.] Validity of transfer made under section 59 (2) of Bom. VII of 1925.

73. The enactments specified in the Schedule are hereby repealed in so far as they apply to the Bombay Presidency to the extent specified in the fourth column of the said Schedule. Repeal.

SCHEDULE.

Enactments repealed.

(*See* section 73.)

Year.	No.	Short title.	Extent of repeal.
		Acts of the Governor General in Council.	
1912 ...	II	The Co-operative Societies Act, 1912[2] ...	The whole.
1920 ...	XXXVIII	The Devolution Act, 1920[2] ...	So much as relates to Act II of 1912.
		Act of the Governor of Bombay in Council.	
1920 ...	I	The Bombay Land Revenue Code (Amendment) Act, 1920.	The whole.

[1] This section was inserted by Bom. 22 of 1935, s. 6.

[2] See Central Acts.

THE BOMBAY SECURITIES CONTRACTS CONTROL ACT, 1925.

CONTENTS.

PREAMBLE.

Sections.

1. Short title.
2. Extent and operation.
3. Definitions.
4. Recognition.
5. Rules.
6. Contracts not made subject to rules to be void.

†BOMBAY ACT No. VIII of 1925.[1]

[THE BOMBAY SECURITIES CONTRACTS CONTROL ACT, 1925.]

[*29th December 1925.*]

Amended by Bom. 9 of 1927.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency.

WHEREAS it is expedient to regulate and control certain contracts for the purchase and sale of securities in the City of Bombay and elsewhere in the Bombay Presidency in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by section 80A (*3*) of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

Short title.

1. This Act may be called the Bombay Securities Contracts Control Act, 1925.

Extent and operation.

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay.

(*2*) It shall come into [2]operation in the city of Bombay on such date as the [3][Provincial Government] may, by notification in the [4][*Official Gazette*], appoint: the [3][Provincial Government] may further, by notification in the [4][*Official Gazette*], direct that the Act shall come into operation in any place in the Bombay Presidency other than the city of Bombay on such date as may be specified in such notification.

Definitions.

3. In this Act unless there is something repugnant in the subject or context,

(*1*) "securities" include stocks, shares, bonds, debentures, debenture stock and any other instruments of a like nature.

(*2*) "stock-exchange" means any association, organisation or body of individuals, whether incorporated or not, established for the purpose of assisting, regulating and controlling business in buying, selling and dealing in stocks, shares, bonds, debentures, debenture stock and any other like securities.

(*3*) "recognised stock-exchange" means a stock-exchange which is, for the time being, recognised by the [3][Provincial Government] as provided in section 4.

(*4*) "ready delivery contract" means a contract for the purchase or sale of securities for performance of which no time is specified and which is to be performed immediately or within a reasonable time.

Explanation.—The question what is a reasonable time is in each particular case a question of fact.

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† On the date on which an association is recognised under section 3 of the Bombay Forward Contracts Control Act, 1947, in any area in respect of securities, this Act shall cease to have force in such area (*vide* Bom. 64 of 1947, s. 14(*1*)).

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, p. 447; for Report of Select Committee, *see* p. 1037 of Appendix to Vol. XVI of the Bombay Legislative Council Debates, 1925; and for Proceedings in Council, *see ibid.*, Vol. XVI.

[2] This Act came into operation in the City of Bombay on the 1st January 1926 (*vide* Government Notification in the Finance Department No. 2902-A, dated the 30th December 1925, published in the *Bombay Government Gazette*, 1925, Part I, p. 3361).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

Recognition.

4. (1) A stock-exchange desirous of being recognized for the purpose of this Act shall make an application in writing to the [1][Provincial Government] for such recognition, and shall submit rules for the regulation and control of transactions in securities other than ready delivery contracts and furnish such information in regard to such recognition as the [1][Provincial Government] may require.

(2) The [1][Provincial Government] may give or refuse such recognition provided that the rules submitted by the stock-exchange under sub-section (1) shall be published in the [2][*Official Gazette*] one month before such recognition is given.

(3) The [1][Provincial Government] may at any time withdraw the recognition given to a stock-exchange under sub-section (2), and such stock-exchange shall thereupon cease to be a recognized stock-exchange.

Rules.

5. (1) A stock-exchange subject to the sanction of the [1][Provincial Government] may make and may from time to time add to, vary or rescind rules for the regulation and control of transactions in securities (other than ready delivery contracts).

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for :—

(a) the government of the stock-exchange by a governing body and the constitution of such governing body ;

(b) the powers and duties of the governing body and the manner in which its business shall be transacted ;

(c) the fixing of a scale of charges ;

(d) the making, settling and closing of bargains ;

(e) the exercise of emergency powers in the case of corners ;

(f) the regulation of dealings by members for their own account ; and

(g) the settlement of disputes arising between members and the punishment of defaulting members.

(3) Rules made by a stock-exchange under sub-section (1) shall be published in the [2][*Official Gazette*] one month before they are sanctioned by the [1][Provincial Government] and shall again be published after sanction.

Contracts not made subject to rules to be void.

6. Every contract for the purchase or sale of securities, other than a ready delivery contract, entered into after a date to be notified in this behalf by the [1][Provincial Government] shall be void, unless the same is made subject to and in accordance with the rules duly sanctioned under section [3][5] and every such contract shall be void unless the same is made between members or through a member of a recognised stock-exchange ; and no claim shall be allowed in any Civil Court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] This figure was substituted for the figure "4" by Bom. 9 of 1927, s. 2, First Schedule.

THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925.

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SCHEDULES I—VII.

BOMBAY ACT No. XVIII of 1925.[1]

[THE BOMBAY MUNICIPAL BOROUGHS ACT, 1925.]

[*8th June 1926.*]

Amended by Bom. 10 of 1926.
,, ,, ,, 1 of 1927.
,, ,, ,, 12 of 1927.
,, ,, ,, 3 of 1930.
,, ,, ,, 4 of 1930.
,, ,, ,, 9 of 1930.
,, ,, ,, 25 of 1930.
,, ,, ,, 12 of 1931.
,, ,, ,, 23 of 1931.
,, ,, ,, 7 of 1932.
,, ,, ,, 15 of 1932.
,, ,, ,, 17 of 1933.
,, ,, ,, 14 of 1934.
,, ,, ,, 19 of 1935.
,, ,, ,, 14 of 1936.
,, ,, ,, 15 of 1936.
,, ,, ,, 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 9 of 1938.*
,, ,, ,, 8 of 1939.
,, ,, ,, 20 of 1944.§
,, ,, ,, 17 of 1945.‡
,, ,, ,, 22 of 1945.§
,, ,, ,, 7 of 1946.§
,, ,, ,, 1 of 1947.
,, ,, ,, 2 of 1947.
,, ,, ,, 41 of 1947.†
Adapted by the India (Adaptation of Existing Indian Laws) Order, 1947.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, pages 187–195; for Report of the Select Committee, *see ibid.*, pages 335–342; and for Proceedings in Council, *see* Council Debates, 1925, Volumes XV and XVI.

* Section 9 of Bom. 9 of 1938 which reads as under:—

"9. (*1*) Nothing in this Act shall affect any municipality constituted under the District Act or the Boroughs Act or any committee of such municipality constituted immediately before the commencement of this Act, and no appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed by or in respect of such municipality or committee shall be deemed to be invalid by reason only of the fact that this Act has come into force. Savings.

(*2*) Notwithstanding anything contained in this Act, any casual vacancy in such municipality or any committee thereof shall, in the case of a municipality constituted under the District Act subject to section 17 of the said Act and in the case of a municipality constituted under the Boroughs Act subject to section 25 of the said Act, be filled in the manner provided by either of the said Acts, as the case may be, as if this Act had not come into force."

§ These Acts have been repealed and re-enacted by Bom. 1 of 1947.

‡ This Act was repealed and re-enacted, and the amendments made by section 9 and Schedule E of the said Act have been continued in force, by Bom. 52 of 1947, s. 2.

† Section 7 of Bom. 41 of 1947 reads as under:—

"7. Nothing in this Act shall affect any local board or any municipality constituted immediately before the coming into operation of this Act; and notwithstanding anything contained in this Act, any casual vacancy in such local board or municipality shall be filled in the manner provided by the respective principal Act under which it was constituted, as if this Act had not come into operation." Savings.

An Act to give wider powers in the management of municipal affairs in certain cities.

WHEREAS it is expedient to amend the law relating to the management of municipal affairs in certain cities of the Bombay Presidency;

And Whereas the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. V c. 61.

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay [1][Municipal Boroughs] Act, 1925

(*2*) It extends to the whole of the Bombay Presidency.

2. [*Act V of 1868 not to apply to powers under this Act.*] *Omitted by the Adaptation of Indian Laws Order in Council.*

Definitions.

3. In this Act and in the schedules, unless there be something repugnant in the subject or context,—

(*1*) "Annual letting value" shall mean the annual rent for which any building or land, exclusive of furniture or machinery contained or situate therein or thereon, might reasonably be expected to let from year to year, and shall include all payments made or agreed to be made by a tenant to the owner of the building or land on account of occupation, taxes, insurance or other charges incidental to his tenancy.

(*2*) "Building" shall include any hut, shed or other enclosure, whether used as a human dwelling or for any other purpose, and shall also include walls, verandahs, fixed platforms, plinths, doorsteps and the like.

(*3*) "Commissioner" shall mean the Commissioner of a division appointed under the Bombay Land Revenue Code, 1879. [3]or Bom. V of 1879.

(*4*) "Councillor" shall mean any person legally a member of the municipality in a municipal borough.

(*5*) "Dangerous disease" shall mean cholera, plague, small-pox, and any endemic, epidemic or infectious disease by which the life of man is endangered.

(*6*) "House-gully" means a passage or strip of land constructed, set apart or utilized for the purpose of serving as a drain or of affording access to a privy, urinal, cess-pool or other receptacle for filthy or polluted matter, to municipal servants or to persons employed in the cleansing thereof or in the removal of such matter therefrom.

(*7*) "Judge" shall mean District Judge, Joint Judge, Assistant Judge, Judge of a Court of Small Causes, Subordinate Judge, or Joint Subordinate Judge.

(*8*) "Land" shall include land which is built upon or covered with water.

(*9*) "Municipal borough" shall mean a Municipal district as defined in the Bombay District Municipal Act, 1901, included or hereafter included in Schedule I, during the period of such inclusion. Bom. III of 1901.

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[1] These words were substituted for the words "City Municipalities" by Bom. 4 of 1930, s. 4.

[2] The words "Provincial Government" were substituted for the words "Commissioner in Sind" by the Adaptation of Indian Laws Order in Council.

[3] The words "and in Sind, the [2][Provincial Government]" were deleted.

Bom. III of 1901.

(*10*) "Municipal district" shall mean a municipal district as defined in the Bombay District Municipal Act, 1901.

(*11*) "Nuisance" shall include any act, omission, place or thing which causes or is likely to cause injury, danger, annoyance or offence to the sense of sight, smelling or hearing, or which is or may be dangerous to life or injurious to health or property.

(*12*) "Octroi" shall include a terminal tax.

(*13*) "Official year" shall mean the year commencing on the first day of April.

(*14*) "Owner" shall include the person for the time being receiving the rent of any land or building, whether on his own account or as agent or trustee for any other person or for any society or for any religious or charitable purposes, or who would so receive the rent if such land or building were let to a tenant.

(*15*) "Public securities" shall mean—

(*a*) securities of the [1][Central Government] and of the [2][Provincial Government];

(*b*) stocks, debentures or shares in railway or other companies the interest whereon has been guaranteed by the Secretary of State for India in Council [3][or the Central or the Provincial Government];

(*c*) debentures or other securities for money issued by or on behalf of any local authority in exercise of powers conferred by an Act of a legislature established in British India; or

(*d*) a security expressly authorized by any order which [4][the Provincial Government] makes in this behalf.

(*16*) "Public street" shall mean any street—

(*a*) over which the public have a right of way; or

(*b*) heretofore levelled, paved, metalled, channelled, sewered or repaired out of municipal or other public funds; or

(*c*) which under the provisions of section 115 or 116 is declared by the municipality to be, or under any other provisions of this Act becomes a public street.

(*17*) "Private street" means a street which is not a public street.

(*18*) "Salaried [5][servant of the Crown]" shall not include a retired [5][servant of the Crown] in receipt of a pension or a person in receipt of a salary [6][from the Crown] who is not a full time [5][servant of the Crown].

(*19*) "Street" shall mean any road, footway, square, court, alley or passage, accessible whether permanently or temporarily to the public, whether a thoroughfare or not; and shall include every vacant space, notwithstanding that it may be private property and partly or wholly obstructed by any gate, post, chain or other barrier, if houses, shops or other buildings abut thereon and if it is used by any persons as a means of access to or from any public place or thoroughfare, whether such persons be occupiers of such buildings or not; but shall not include any part of such space which the occupier of any such building has a right at all hours to prevent all other persons from using as aforesaid.

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[1] The words "Central Government" were substituted for the words "Government of India" by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "Local Government", *ibid.*

[3] The words "or the Central or the Provincial Government" were inserted, *ibid.*

[4] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

[5] The words "servant of the Crown" were substituted for the words "servant of the Government", *ibid.*

[6] The words "from the Crown" were substituted for the words "from the Government", *ibid.*

(*20*) "Tax" shall mean any toll, rate, cess, fee or other impost leviable under this Act and shall include a water rate.

(*21*) "Vehicle" shall include bicycles, tricycles, motor cars, and every wheeled conveyance which is used or capable of being used on a public street.

CHAPTER II.

CONSTITUTION OF MUNICIPALITIES.

(*1*) *Municipal boroughs.*

Extension of Act to and withdrawal of Act from municipal districts and boroughs.

4. (*1*) [1][The Provincial Government] may, by notification in the [2][*Official Gazette*] and with effect from a date to be specified in the said notification, include in Schedule I any municipal district [3]* * or exclude any municipal boroughs from the said Schedule.

(*2*) [1][The Provincial Government] may, after consulting the municipality, by notification in the [2][*Official Gazette*] and with effect from a date to be specified in the said notification, extend, contract or otherwise alter the limits of any municipal borough.

Limits to be specified in notification altering area.

(*3*) A notification altering the limits of a municipal borough shall clearly set forth the local limits of the area to be included in or excluded from such municipal borough.

Property and rights of municipalities which have ceased to exist to vest in the Provincial Government.

[4][(*4*) Save where it is otherwise provided in this Act, when a municipality ceases to exist on account of its members ceasing to hold office, or for any other reason whatsoever, the property and rights vested in the municipality shall, subject to all charges and liabilities affecting the same, vest in His Majesty, and the proceeds thereof, if any, shall be expended under the orders of [1][the Provincial Government] for the benefit of the local area in which such municipality had jurisdiction.]

Bom. III of 1901 not to apply to municipal boroughs.

5. (*1*) The provisions of the Bombay District Municipal Act, 1901, shall not apply to any municipal district included or hereafter included in Schedule I from the date of such inclusion : Bom. III of 1901.

Provided that—

(*a*) references in any other enactment or in any instrument to the Bombay District Municipal Act, 1901, shall, unless a different intention appears, be construed in respect of any municipal borough as references to this Act, Bom. III of 1901.

Continuance of acts, notifications, etc. in respect of boroughs.

(*b*) any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, in respect of a municipal district included or hereafter included in Schedule I, so far as is not inconsistent with the provisions of Bom. III of 1901.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "other than the municipal district of Karachi" were repealed by Bom. 17 of 1933, s. 4.

[4] This sub-section was inserted by Bom. 1 of 1927, s. 2.

this Act, and any appointment, notification, order, scheme, rule, by-law or form made or issued under any other law in respect of such district shall continue in force and be deemed to have been made, issued or imposed under the provisions of this Act or of such other law in respect of the municipal borough constituted by such inclusion unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made or issued under this Act or such other law.

Municipal boroughs excluded from Schedule I.

(2) From the date specified in a notification under sub-section (1) of section 4, excluding a municipal borough from Schedule I, it shall cease to be a municipal borough and the provisions of the Bombay District Municipal Act, 1901, shall apply to it.

Bom. III of 1901.

Transfer of rights, etc., on inclusion in Schedule I.

6. The property, rights and liabilities of the municipality in a municipal district included or hereafter included in Schedule I shall vest in the municipality of the municipal borough constituted by such inclusion, from the date of such inclusion.

Preliminaries before notification.

7. (1) Not less than three months before the publication of a notification under section 4 [1][the Provincial Government] shall cause to be published in the [2][*Official Gazette*] in English, and in at least one of the local newspapers (if any) in the vernacular language of the district in which the municipal borough or municipal district is situate, and to be posted up in conspicuous places in such municipal borough or municipal district in such vernacular language, a proclamation announcing that it is proposed to include in or exclude from Schedule I the municipal district or municipal borough, as the case may be, or to alter the limits of the municipal borough in a certain manner, and requiring all persons who entertain any objection to the said proposal to submit the same, with the reasons therefor in writing, to the Collector within two months from the date of the said proclamation ; and whenever it is proposed to add to or exclude from a municipal borough any inhabited area, it shall be the duty of the municipality also to cause a copy of such proclamation to be posted up in conspicuous places in such area.

(2) The Collector shall, with all reasonable despatch, forward every objection so submitted to [1][the Provincial Government].

(3) No such notification as aforesaid shall be issued by [1][the Provincial Government] unless the objections, if any, so submitted are in its opinion insufficient or invalid.

(2) *Municipalities.*

Incorporation of municipalities.

8. In every municipal borough there shall be a municipality, and every such municipality shall be a body corporate by the name of [3][" the..... Borough Municipality "], and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name through its Chief Officer.

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid*

[3] The words " the .....Borough Municipality " were substituted for the words " the municipality of..... " by Bom. 24 of 1936, s. 2, Sch.

(3) Election of Councillors.

Municipalities to consist of elected councillors.

9. (*1*) Every such municipality shall consist of—

(*a*) elected councillors ; and

[1]* * * *

Failure to elect.

(*2*) Any vacancy due to failure to elect the full number of councillors which under this section might be elected and any vacancy due to failure to elect a councillor under section 29 may, notwithstanding anything in this Act, be filled up by nomination by [2][the Provincial Government].

Continuance of councillors holding office at commencement of Act. Election in case of non-continuance.

(*3*) Councillors elected or nominated under the Bombay District Municipal Act, 1901, and holding office in a municipal district included or hereafter included in Schedule I, immediately prior to such inclusion, shall be deemed to have been elected or nominated, as the case may be, under this Act: provided that where [2][the Provincial Government] has directed that all the councillors shall be elected, councillors nominated under the Bombay District Municipal Act, 1901, shall not be deemed to have been nominated under this Act, and councillors shall be elected under the provisions of this Act in place of such nominated councillors. Bom. III of 1901. Bom. III of 1901.

The Provincial Government shall determine number of councillors ; and make rules for regulating elections.

10. (*1*) [2][The Provincial Government] shall, from time to time, generally or specially for each municipality,—

(*a*) determine the number of councillors ;

[3]* * *

(*c*) make rules consistent with this Act prescribing the [4][number and extent of the wards to be constituted in each municipal borough, the number of councillors to be elected by each ward and the number of seats, if any, to be reserved for the representation of women, Muslims, Harijans, backward tribes, Anglo-Indians and Indian Christians], providing for the preparation and revision of the lists of voters from time to time, fixing the date after which no application for enrolment in any such list under preparation or revision shall be received, declaring the manner in which the right to vote of any undivided family, or any company or firm, or any other association or body of individuals or any trustees of any building or land being two or more in number entered in such list, may be recorded and exercised, and prescribing the restrictions, if any, on the number of votes which a voter may give ;

determining the manner in which and the authority by whom any objection to such lists in regard to the names entered therein or omitted therefrom may be heard and decided, and to what judicial authority the appeals as to such entries and omissions shall lie ;

prescribing the date for the publication of the Municipal Election Roll ;

regulating generally such elections :

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[1] The clause (*b*) and provisos to the sub-section were deleted by Bom. 9 of 1938, s. 6.

[2] The words "the Provincial Government" were substituted for the words "the Government", by the Adaptation of Indian Laws Order in Council.

[3] Clause (*b*) was deleted by Bom. 9 of 1938, s. 7 (*1*).

[4] These words were substituted for the original by Bom. 41 of 1947, s. 5.

[1][Provided that rules so made shall not provide for the reservation of seats in any ward for the representatives of any tribe, caste or community—

(*a*) other than—

(*i*) a backward tribe,

(*ii*) Harijans, or

(*iii*) any community, the members of which are under the Fifth Schedule to the Government of India Act, 1935, entitled to separate constituencies for electing representatives to the Bombay Legislative Assembly, and

(*b*) unless the Provincial Government is of opinion that the reservation of such seats is necessary having regard to the population of such tribe, caste or community in the municipal borough ;

[2][*Explanation.*—For the purpose of this section—

(*1*) A Harijan shall mean a member of a scheduled caste as defined in the Government of India (Scheduled Castes) Order, 1936 ;

(*2*) A backward tribe shall mean a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936.]

[3](*3*) 'Anglo-Indian' means a person whose father or any of whose other male progenitors in the male line is or was of European descent but who is a native of India ;

(*4*) 'Indian Christian' means a person who is a native of India and who professes any form of the Christian religion and whose father or any of whose other male progenitors in the male line is not or was not of European descent.]

[4]* * *

(*2*) [5][The Provincial Government] may from time to time delegate to the Commissioner any of the powers granted to [5][the Provincial Government] by clause (*c*) of sub-section (*1*), subject to such restrictions or conditions, if any, as [5][the Provincial Government] may attach to the delegation and such powers shall not be exercised without first receiving the opinion of the municipality concerned.

Persons qualified to vote or be candidates at a municipal election. Electoral roll of tax-payers.

11. (*1*) Save as provided in section 16, every person whose name is entered in the current electoral roll or part thereof, prepared for a municipal borough which constitutes or forms part of a [6][territorial constituency and published under rule 23 (3) of the Bombay Legislative Assembly Electoral (Preparation, Revision and Publication of Electoral Rolls) Rules, 1936, [7][and who, within the three months next preceding the last day before the preparation or revision of the list of voters upon which under the rules applications for enrolment may be received has paid all arrears of taxes, if any, due from him to the municipality,] shall be qualified to vote at a municipal election in such municipal borough.

(*2*) (*a*) Save as provided in section 16, every person—

(*i*) who in any municipal borough, on the first day of April next preceding the date of publication of the electoral roll, occupied as owner or tenant a house or building, or part of a house or building separately occupied, as a dwelling or for the purpose of any trade, business or profession of which the annual rental was not less than Rs. 12 or of which the capital value was not less than Rs. 200, or

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[1] This proviso was added by Bom. 9 of 1938, s. 7 (*2*) (*c*).

[2] This explanation was substituted for the original by Bom. 9 of 1938, s. 7 (*3*).

[3] This portion was added by Bom. 41 of 1947, s. 5.

[4] Sub-section (*1A*) was deleted, *ibid.*, s. 5.

[5] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[6] These words, figures and brackets were substituted for the words, figures and brackets "general constituency, and published under regulation 6 (3) of Part II of the Bombay Electoral Regulations 1923", by Bom. 24 of 1936, s. 2, Sch., with effect from the 31st day of March 1937.

[7] These words were inserted by Bom. 20 of 1944, s. 2, read with Bom. 1 of 1947, s.

[1](*ii*) who for a period of not less than three months next preceding the last day before the preparation or revision of the list of voters upon which under the rules applications for enrolment may be received has been assessed to the qualifying tax,

and who within the three months next preceding the date referred to in sub-clause (*ii*) has paid all arrears of taxes, if any, due from him to the municipality, shall be qualified to be entered in the list of voters for such municipal borough and to vote at a municipal election in such municipal borough.

Explanation.—A person shall be deemed to be in arrears of taxes if he has not paid within one month of the date of presentation any bill which has been presented under section 104:

Provided that a person who—

(*i*) is not a British subject or a subject of an Indian State, or

(*ii*) has been adjudged by a competent court to be of unsound mind, or

(*iii*) is under 21 years of age,

shall not be entitled to have his name entered in such electoral roll.

Explanation.—For the purposes of this section "the qualifying tax" means a tax, other than octroi, toll and the tax on vehicles and animals plying for hire or kept for the purpose of being let for hire, imposed in a municipal borough.

(*b*) The electoral roll of tax-payers for the time being in force shall be conclusive evidence for the purpose of determining whether any person is entitled to vote under the provisions of this sub-section at any election. If an electoral roll is not revised in accordance with the rules made under clause (*c*) of sub-section (*1*) of section 10, the roll shall continue in force until such revision has taken place.

(*3*) Every person so qualified to vote who for a period of not less than six months next preceding the last day before the preparation or revision of the electoral roll upon which under the rules applications for enrolment may be received has been resident in such borough or within seven miles of the limits thereof shall, subject to the provisions of this Act and of any other law for the time being in force, be qualified to be a candidate at a municipal election in such municipal borough.

Explanation.—For the purposes of this section a person shall be deemed to be resident in or within seven miles of the limits of a municipal borough if he ordinarily resides or has his principal place of residence in or within seven miles of the limits of such borough.

General disqualifications for becoming a councillor. Vacation of seat. Decision of Provincial Government in case of dispute.

12. (*1*) No person may become a councillor—

(*a*) who—

(*i*) has been sentenced by a Criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation, such sentence not having been subsequently reversed or quashed, if and so long as such sentence has not expired, or

(*ii*) has been removed from office under section 27 and five years have not elapsed from the date of the expiry of such removal,

[1] This clause was substituted for the original clause by Bom. 4 of 1930, s. 4.

unless he has, by an order which [1][the Provincial Government] is hereby empowered to make, if it shall think fit, in this behalf, been relieved from the disqualification arising on account of such sentence or removal from office ; or

(*b*) who is an uncertificated bankrupt or an undischarged insolvent, or,

(*c*) who is a Judge.

(*2*) No person—

(*a*) who is a subordinate officer or servant of a municipality, or

(*b*) who, save as hereinafter provided, has directly or indirectly, by himself or his partner any share or interest in any work done by order of a municipality, or in any contract or employment with or under or by or on behalf of a municipality,

may be a councillor of such municipality.

(*3*) A person shall not be deemed to have incurred disqualification under clause (*b*) of sub-section (*2*) by reason of his—

(*i*) having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, or

(*ii*) having a share or interest in any joint-stock company or in any society, registered or deemed to be registered under the Co-operative Societies Act, which shall contract with or be employed by or on behalf of the municipality, or

(*iii*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the municipality may be inserted, or

(*iv*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the municipality, or

(*v*) being professionally engaged on behalf of the municipality as a legal practitioner, or

(*vi*) having a share or interest in the occasional sale to the municipality of any article in which he regularly trades, or in the purchase from the municipality of any article, to a value in either case not exceeding in any official year five hundred rupees or such higher amount not exceeding two thousand rupees as the municipality with the sanction of [1][the Provincial Government] may fix in this behalf, or

(*vii*) having a share or interest in the occasional letting out on hire to the municipality or in the hiring from the municipality of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the municipality with the sanction of [1][the Provincial Government] may fix in this behalf, or

(*viii*) being a party to any agreement made with the municipality under the provisions of section 91 or of proviso (*a*) to sub-section (*1*) of section 194.

(*4*) If any person is elected or nominated as a councillor in contravention of the provisions of this section his seat shall [2][subject to the provisions of sub-section (*5*)] be deemed to be vacant.

[3][(*5*) In every case, the authority competent to decide whether a vacancy has occurred under this section shall be the Collector. The Collector may give his

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, brackets and figure were inserted by Bom. 8 of 1939, s. 3.

[3] Sub-section (*5*) was substituted for the original. *ibid.*

decision either on an application made to him or on his own motion. Until the Collector decides that the vacancy has arisen, the seat of the person elected or nominated shall not, under sub-section (*4*), be deemed to have become vacant. An appeal shall lie against every such decision of the Collector to the Provincial Government and the orders passed by the Provincial Government in such appeal shall be final :

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard.]

Operation of lists.

13. (*1*) When, in accordance with rules framed under [1][clause (*c*) of sub-section (*1*) of section 10], a list of voters has been prepared or, upon a general revision, completed, a copy thereof signed by such person as may be designated in this behalf in the rules aforesaid, shall be the Municipal Election Roll. A new Election Roll shall be published in each year on such date as may be prescribed by the rules, and shall continue in operation for a period of twelve months from that day :

Provided that if a new Election Roll is not published in any year before the date prescribed, the roll then in operation shall continue in operation until the new roll is published.

Right to vote to depend on entry in roll.

(*2*) At every election of councillors every person enrolled in the Municipal Election Roll as for the time being in operation under sub-section (*1*), shall be deemed to be entitled to vote, and every person not so enrolled shall be deemed to be not entitled to vote.

Enrolment in Municipal Election Roll necessary for elected councillor. Representative of an Association.

14. A person shall not be qualified to be elected a councillor unless he is enrolled in the Municipal Election Roll :

Provided that if any company, body corporate, or other association of individuals is enrolled in the Municipal Election Roll, any one person duly authorized in this behalf by a resolution of such company, body or Association to represent such association shall be deemed to be qualified to be elected a councillor.

Determination of validity of elections.

15. (*1*) If the validity of any election of a councillor is brought in question by any person qualified to vote at the election to which such question refers, such person may, at any time within ten days after the date of the declaration of the result of the election, apply to the District Court of the district within which the election has been or should have been held, for the determination of such question :

[2][Provided that in the case of any election of a councillor of a municipality in any area specified in Part II of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, this sub-section shall be construed as if for the words "of the district within which the election has been or should have been held" the words "of Thana" were substituted.]

Powers of Judge holding inquiry.

(*2*) An inquiry shall thereupon be held by a Judge, not below the grade of an Assistant Judge, appointed by [3][the Provincial Government] either specially for the case or for such cases generally ; and such Judge may, after such inquiry as he

[1] These words, figures, letter and brackets were substituted for the original words by Bom. 10 of 1926, s. 2, which takes effect from the date when the original Act came into operation.

[2] This proviso was added by Bom. 17 of 1945, s. 9 and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

deems necessary and subject to the provisions of sub-section (*3*), pass an order confirming or amending the declared result of the election, or setting the election aside. For the purposes of the said inquiry the said Judge may summon and enforce the attendance of witnesses and compel them to give evidence as if he were a Civil Court, and he may also direct by whom the whole or any part of the costs of any such inquiry shall be paid; such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. The decision or order shall be conclusive.

V of 1908.

[1][(*2A*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of councillors elected to represent the same constituency is in question shall be heard by the same Judge; and

(*b*) in which the validity of the election of the same councillor elected to represent the same constituency is in question shall be heard together.

Explanation.—For the purposes of this sub-section a constituency shall mean each ward or a public body or association constituted or entitled to elect councillors.

V of 1908.

(*2B*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not permit (*a*) any application to be compromised or withdrawn or (*b*) any person to alter or amend any pleading, unless he is satisfied that such application for compromise or withdrawal or the application for such alteration or amendment is *bona fide* and not collusive.]

Declaration in case of corrupt practice by a candidate.

(*3*) (*a*) The Judge, if satisfied that a candidate has, within the meaning of sub-section (*4*), committed any corrupt practice for the purpose of the election, shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

Scrutiny of votes and declaration in other cases.

(*b*) If in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall, after a scrutiny and computation of the votes recorded in favour of each candidate, declare the candidate who is found to have the greatest number of valid votes in his favour, to have been duly elected:

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

What is a corrupt practice.

(*4*) A person shall be deemed to have committed a corrupt practice within the meaning of sub-section (*3*)—

(*i*) who with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any gratification or holds out any promise of individual profit, or holds out any threat of injury to any person, or

(*ii*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote,

(*iii*) who pays or promises to pay any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote,

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[1] Sub-sections (*2A*) and (*2B*) were inserted by Bom. 14 of 1936, s. 2.

(*iv*) who hires, employs, borrows or uses for the purposes of the election any boat, vehicle or animal, usually kept for letting on hire or for the conveyance of passengers by hire :

Provided that any elector may hire any boat, vehicle or animal or use any boat, vehicle or animal which is his own property to convey himself to or from the place where the vote is recorded ;

Candidates when deemed to have committed corrupt practice.

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 1.—For the purposes of this section the term " gratification " is not restricted to pecuniary gratification or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward.

Explanation 2.—The expression " a promise of individual profit "—

(*i*) does not include a promise to vote for or against any particular measure which may come before a municipality for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

Mere irregularities and informalities not to invalidate election.

(*5*) If the validity of the election is brought in question only on the ground of any error by the officer or officers charged with carrying out the rules made under clause (*c*) of sub-section (*1*) of section 10, or of an irregularity or informality not corruptly caused, the Judge shall not set aside the election.

Explanation.—The expression " error " in this clause does not include any breach of or any omission to carry out or any non-compliance with the provisions of this Act or the rules made thereunder whereby the result of the election has been materially affected.

Disqualification of persons committing corrupt practice.

(*6*) If the Judge sets aside an election under clause (*a*) of sub-section (*3*), he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of this section, to be disqualified from being a candidate in that or any other municipal borough or district for a term of years not exceeding seven, and the decision of the Judge shall be conclusive : provided, however, that such person may, by an order which [1][the Provincial Government] is hereby empowered to make, if it shall think fit, in that behalf, be at any time relieved from such disqualificaton : provided further that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made.

Voter disqualified for corrupt practice.

16. Any person who has been convicted of an offence under section 171-E or 171-F of the Indian Penal Code, or has been disqualified from exercising any electoral right for a period of not less than five years on account of malpractices in connection with an election, shall be disqualified for five years from the date of such conviction or disqualification from voting at any municipal election in any municipal borough or district or at any election to a local board constituted under the Bombay Local Boards Act, 1923. XLV of 1860. Bom. VI of 1923.

[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

17. The names of all councillors, finally elected to any municipality and the names of the nominated councillors, if any, appointed thereto shall be published, as soon as conveniently may be, in the [1][*Official Gazette*].

Publication of names of councillors in the *Official Gazette*.

(*4*) *Appointment of presidents and vice-presidents.*

18. (*1*) A municipality shall be presided over by a president who shall be elected by the councillors from among their number. There shall be a vice-president similarly elected for each municipality. No salaried [2][servant of the Crown] shall be eligible for election as president or vice-president of a municipality and the election of any such person shall be void.

Election of president and vice-president. Continuance of president or vice-president holding office at the commencement of this Act.

(*2*) A president or vice-president holding office in a municipal district, included or hereafter included in Schedule I, at the time of such inclusion shall be deemed to have been elected under this section and shall continue to hold the office of president or vice-president as the case may be until a fresh election has been held under the provisions of this Act.

19. (*1*) Save as otherwise provided in this Act a president or vice-president shall hold his office for such term, not less than one year and not exceeding three years, as the municipality shall, previous to the election of the president or vice-president determine, or until the expiry within the said term of his term of office as councillor, but shall be eligible for re-election :

Term of office of president and vice-president.

Provided that the term of office of such president or vice-president shall be deemed to extend to and expire with the date on which his successor is elected.

(*2*) On the expiry of the term of office of a municipality the president and vice-president shall continue to carry [3][on] the current administrative duties of their offices until such time as a new president and vice-president shall have been elected and shall have taken over charge of their duties :

President and vice-president to continue to carry out certain duties until their successors take over charge.

[4]* * *

[5][**19A.** (*1*) When a new municipality is constituted after a general election the Collector shall call a meeting for the election of a president and vice-president. The meeting shall be called within twenty-five days from the date on which the names of the councillors of the new municipality are published in the *Official Gazette* under section 17, but shall not be held on a date prior to the date on which the term of office of the retiring councillors prescribed or extended, as the case may be, under sub-section (*1*) of section 25 expires, or on which the municipality is re-established under sub-section (*3*) of section 219 after dissolution or under sub-section (*5*) of section 219 after supersession, as the case may be.

Election of president and vice-president.

(*2*) The meeting called under sub-section (*1*) shall, until the municipality elects its own chairman for that meeting, be presided over by one of the persons appointed by the Collector in the manner hereinafter provided.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "servant of Government", *ibid.*

[3] The word "on" was substituted for the word "out" by Bom. 19 of 1935, s. 2 (*1*) (*a*).

[4] The proviso and sub-section (*3*) were deleted by Bom. 8 of 1939, s. 3 (*b*) (*i*) and (*ii*).

[5] Section 19A was inserted, *ibid.*, s. 3 (*c*).

(*3*) For the purposes of sub-section (*2*) the Collector shall select three persons who shall be councillors of the new municipality after obtaining their consent in writing to the selection, and shall arrange their names in a list in order of preference. The retiring president, if any, and the retiring vice-president, if any, shall, if they consent, be among the persons selected and shall, if both consent, be placed respectively first and second in the list. If either the retiring president or the retiring vice-president alone consents, he shall be placed first in the list. The person whose name is placed first in the list shall preside at the meeting called under sub-section (*1*), but if such person is absent or is unable or fails for any reason to preside, the person whose name is placed second in the list shall preside. If the persons whose names are placed first and second in the list are both absent or are unable or fail for any reason to preside, the person whose name is placed third shall preside. If none of the three persons named in the list is present or able or willing to preside, the meeting shall not be held and the Collector shall, as soon as may be, call a fresh meeting, and shall select three other persons in the manner prescribed above, one of whom shall preside thereat in the order specified above.

(*4*) If in the election of a chairman for the meeting called under sub-section (*1*) there is an equality of votes, the result of the election shall be decided by lot to be drawn in the presence of the person presiding in such manner as he may determine. As soon as a chairman is elected, he shall take the chair, and the meeting shall proceed to elect the new president. The new president shall take the chair as soon as he is elected and the meeting shall then proceed to elect the new vice-president.]

Resignation of president and vice-president.

20. A president may resign his office by tendering his resignation in writing to the municipality; and such resignation shall take effect on its acceptance by the municipality. Such acceptance shall be published in the [1][*Official Gazette*]. A vice-president may resign his office by tendering his resignation in writing to the president.

Liability of president and vice-president to removal.

21. A president or vice-president shall be removable from his office as such president or vice-president by the municiplity by a resolution passed to that effect, provided that three-fourths of the whole number of the councillors of the municipality vote in favour of such resolution and provided, further, that before such resolution is passed the president or vice-president is given a reasonable opportunity of showing cause why such resolution should not be passed.

Consequences of absence of president or vice-president without leave.

22. (*1*) Every president who for a period exceeding three months and every vice-president who for a period exceeding one month, shall absent himself from the municipal borough in such manner as to be unable to perform his duties as such president or vice-president, shall cease to be president or vice-president unless leave so to absent himself has been granted by the municipality.

Limit to grant of leave, and arrangement pending absence of vice-president

(*2*) Leave under sub-section (*1*) shall not be granted for a period exceeding six months, and whenever leave is granted to a vice-president under that sub-section, a councillor shall be elected by the councillors from among their number to perform all the duties and exercise all the powers of the vice-president, during the period for which such leave is granted.

[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

23. (*1*) In the event of the non-acceptance of office, death, resignation or removal from office of a president or of a vice-president or of his election being void, or of his becoming incapable of acting in such office or having ceased to be a president or a vice-president under sub-section (*1*) of section 22 or a councillor under sub-section (*1*) of section 28, previous to the expiry of his term of office as president or vice-president, the vacancy shall be filled up [1][within twenty-five days from the occurrence of the vacancy] by the election of some other councillor thereto. Vacancies in office of president and vice president to be filled up.

[2][(*1A*) In the event of the expiry of the term of office of the president or vice-president determined by the municipality under sub-section (*1*) of section 19, unless section 19A applies, a new president or vice-president, as the case may be, shall be elected within twenty-five days from the date of such expiry.]

[3][(*2*) The provisions of section 19A shall be applicable, so far as may be, to the calling of a meeting and the procedure to be followed at such meeting for the election of a president under sub-section (*1*) [4][or (*1A*)].]

23A. [*Collector to call meeting for election of president or vice-president in certain cases*]: *Deleted by Bom. 8 of 1939, s. 3 (c).*

(*5*) *Term of office of councillors.*

24. (*1*) Save as otherwise provided in this Act councillors deemed to have been elected or nominated under sub-section (*3*) of section 9 shall continue to hold office for the term for which they were elected or nominated under the Bombay District Municipal Act, 1901. Councillors elected under the said sub-section shall hold office for the same period as councillors deemed to have been elected as aforesaid. Term of office of councillors holding office prior to commencement of Act; and of councillors then elected.

Bom. III of 1901.

[5][Provided that—

(*a*) [6][the Provincial Government] may, by a notification in the [*Officia Gazette*] and subject to the other provisions of this Act, extend the term of office of any municipality for a period up to a date not later than the thirty-first day of December [8][1928.];

(*b*) any notification issued under proviso (*a*) after the expiry of the term of office of any municipality constituted under the Bombay District Municipal Act, 1901, and before the thirty-first day of May 1927 shall be deemed to have been issued and to have had effect as from the date of expiry of the term of office of such municipality; and any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under the Bombay District Municipal Act, 1901, by any such municipality so far as is not inconsistent with the provisions of this Act shall be deemed to be valid and to have been made, issued or imposed under this Act and shall continue in force unless and until it is superseded by any appointment, notification, notice, tax, order, scheme, licence, permission, rule, by-law or form made, issued or imposed under this Act.]

Bom. III of 1901.

Bom. III of 1901.

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[1] These words were inserted by Bom. 19 of 1935, s. 3 (*1*).
[2] This sub-section was inserted by Bom. I of 1947, s. 6 (*a*).
[3] Sub section (*2*) of section 23 was substituted for the original by Bom. 8 of 1939, s. 3 (*d*).
[4] This word, brackets, figure and letter were added by Bom. 1 of 1947, s. 6 (*b*).
[5] This proviso was added by Bom. 1 of 1927, s. 3.
[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*
[8] These figures were substituted for the original figures "1927." by Bom. 12 of 1927, s. 2.

(2) The provisions of clause (b) of sub-section (2) of section 25 shall apply to such councillors.

Validation of acts of expired municipalities.

[1][24A. Any municipality of a municipal borough included in Schedule I which has not been constituted in accordance with the provisions of this Act and the rules made thereunder shall, save where it is otherwise provided in this Act, be deemed not to have been duly constituted and its members, both elected and nominated, shall be deemed not to have been duly elected and nominated.]

Term of office of councillors after general election.

25. (1) Councillors nominated or elected at a general election under this Act shall, save as otherwise provided in this Act, hold office for a term of three years, extensible by order of [2][the Provincial Government] to a term not exceeding in the aggregate four years, if on any occasion [2][the Provincial Government] shall think fit, for reasons which shall be notified together with the order in the [3][*Official Gazette*] so to extend the same :

Provided that before such order is made [2][the Provincial Government] shall invite and consider objections, if any, from the voters entitled to vote at the municipal election in the municipal borough concerned.

(2) (a) The term of office of such councillors shall be deemed to commence on the date of the first general meeting which shall be held after such election and after the expiry of the term of the outgoing councillors hereinbefore provided and at which a quorum shall be present; and

(b) the term of office of the outgoing councillors shall be deemed to extend to and expire with the day before the date of such meeting.

Resignation of councillors.

26. Any councillor may resign his office by giving notice in writing to that effect to the president.

Liability of councillors to removal from office.

27. [2][The Provincial Government] if it thinks fit, on the recommendation of the municipality supported by at least two-thirds of the whole number of councillors may remove any councillor elected or nominated under this Act, if such councillor has been guilty of misconduct in the discharge of his duties, or of any disgraceful conduct or has become incapable of performing his duties as a councillor :

Provided that no resolution recommending the removal of any councillor shall be passed by the municipality unless the councillor to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

Disabilities from continuing a councillor.

28. (1) If any councillor during the term for which he has been elected or nominated—

(a) becomes subject to any disqualifications specified in section 12, or

(b) acts as a councillor in any matter—

(i) in which he has directly or indirectly, by himself or his partner, any such share or interest as is described in clause (i), (ii), (iii), (vi) or (viii) of sub-section (3) of section 12, whatever may be the value of such share or interest, or

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[1] S. 24A was inserted by Bom. 1 of 1927, s. 4.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*ii*) in which he is professionally interested on behalf of a principal or other person, or

(*iii*) in which he is engaged at the time in any case against the municipality, or

(*c*) departs beyond the limits of the Presidency with the declared or known intention of absenting himself continuously for a period exceeding six months, or

(*d*) not being a president or vice-president or a salaried [1][servant of the Crown], absents himself during four successive months from the meetings of the municipality, except with the leave of the municipality,

(*e*) fails to pay any arrears of any kind due by him to the municipality within three months after a special notice in this behalf has been served upon him,

he shall [2][subject to the provisions of sub-section (*2*)] be disabled from continuing to be a councillor and his office shall become vacant.

[3][(*2*) In every case, the authority competent to decide whether a vacancy has arisen shall be the Collector. The Collector may give his decision either on an application made to him by any person or on his own motion. Until the Collector decides that the vacancy has arisen, the councillor shall not be disabled under sub-section (*1*) from continuing to be a councillor. An appeal shall lie against every such decision of the Collector to the Provincial Government and the orders passed by the Provincial Government in such appeal shall be final:

Provided that no order shall be passed under this sub-section by the Collector against any councillor without giving him a reasonable opportunity of being heard].

Casual vacancies how to be filled up.

29. Where a vacancy occurs through the non-acceptance of office by a person elected or appointed to be a councillor, or through such person being disqualified for becoming a councillor, or through any election being set aside under the provisions of sub-section (*2*) of section 15, or through the death, resignation, removal or disability of a councillor previous to the expiry of his term of office, the vacancy shall be filled up, as soon as it conveniently may be, by the election or nomination as the case may be of a person thereto, who shall hold office so long only as the councillor in whose place he is elected or nominated would have held it if the vacancy had not occurred. [4][Provided that no election shall be held to fill up a vacancy occurring within four months of the date on which the term of the municipality expires].

A councillor whose office has become vacant under section 28 shall, if his disability has ceased, be eligible for re-election.

(*6*) *Municipal Government. Functions of President and Vice-President.*

Municipal government vests in the municipality.

30. (*1*) Except as in this Act otherwise expressly provided, the municipal government of a municipal borough vests in the municipality.

Executive power vests in the Chief Officer.

(*2*) The executive power for the purpose of carrying out the provisions of this Act vests in the Chief Officer appointed under section 33, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the municipality or of the

[1] The words "servant of the Crown" were substituted for the words "servant of the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, brackets and figure were inserted by Bom. 8 of 1939, s. 3 (*f*) (*i*).

[3] Sub-section (*2*) of section 28 was substituted for the original, *ibid.*, s. 3 (*f*) (*ii*).

[4] This proviso was added by Bom. 19 of 1935, s. 5.

standing committee and subject also to all other restrictions, limitations and conditions imposed by this Act and the rules made thereunder.

Function of president.

31. It shall be the duty of the president of a municipality—

(*a*) to preside, unless prevented by reasonable cause, at all meetings of the municipality, and subject to the provisions of the rules for the time being in force under clause (*a*) of section 58 to regulate the conduct of business at such meetings;

(*b*) to watch over the financial and executive administration of the municipality and to perform such executive functions as may be allotted to him by or under this Act;

(*c*) to exercise supervision and control over the acts and proceedings of all officers and servants of the municipality in matters of executive administration and in matters concerning the accounts and records of the municipality; and, subject to the rules of the municipality at the time being in force, to dispose of all questions relating to the service of the said officers and servants, and their pay, privileges and allowances;

(*d*) the president of a municipality may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the municipality, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund:

Provided that—

(*a*) he shall not act under this section in contravention of any order of the municipality prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and the reason therefor to the standing committee at its next meeting.

Functions of vice-presidents.

32. It shall be the duty of the vice-president of a municipality—

(*a*) in the absence of the president and unless prevented by reasonable cause, to preside at the meetings of the municipality and he shall when so presiding exercise the same authority as is vested in the president under clause (*a*) of section 31;

(*b*) to exercise such of the powers and perform such of the duties of the president as the president may from time to time depute to him; and

(*c*) pending the election of a president, or during the absence of the president, to exercise the powers and perform the duties of the president.

(7) *Appointment and powers of chief and other municipal officers.*

Appointment of Chief Officer: Conditions of tenure.

[1]**33.** (*1*) There shall be a chief officer in every municipal borough who shall be a graduate of a recognized university or a qualified engineer appointed by the municipality:

Provided that a person permanently appointed as Chief Officer under the Bombay District Municipal Act, 1901, before the coming into operation of this Act [2][or a person temporarily appointed as chief officer under this Act for a period not exceeding two months in the aggregate in a year] need not be a graduate of a recognised university or a qualified engineer: Bom. III of 1901.

[1] This section was substituted for the original section by Bom. 1 of 1926, s. 3, which takes effect from the date when the original Act came into operation.

[2] These words were inserted by Bom. 4 of 1930, s. 4.

[1][Provided further that, with the previous sanction of [2][the Provincial Government], a person who is not a graduate of a recognised university or a qualified engineer, may be appointed Chief Officer of a municipal borough with an annual income of less than two lacs of rupees.]

(*2*) No Chief Officer shall be removed from office, reduced or suspended unless by the votes of at least two-thirds of the whole number of councillors; and no such officers shall be punishable with fine.]

Powers and duties of Chief Officer.

34. (*1*) The Chief Officer shall—

(*a*) subject to the general control of the president, watch over the financial and executive administration of the municipality and perform all the duties and exercise all the powers specifically imposed or conferred upon him by, or delegated to him under this Act;

(*b*) subject to the provisions of sub-section (*4*), exercise supervision and control over the acts and proceedings of all officers and servants of the municipality as regards appointments referred to in clause (*c*) in matters of executive administration and in matters concerning the accounts and records of the municipality; and subject further to the rules of the municipality for the time being in force, dispose of all questions relating to the service of the officer and servants and their pay, privileges, leave and allowances;

(*c*) subject to the provisions of sub-section (*4*) appoint to any post the monthly salary for which as fixed by rules made under clause (*c*) of section 58 does not exceed Rs. 50 and to any other post the appointment to which has not been otherwise provided for by such rules;

(*d*) with the permission of the President furnish to the Collector, or such other officer as the Collector shall from time to time nominate in this behalf, a copy of every resolution passed at any meeting of the municipality;

(*e*) subject to the provisions of this Act and of the bye-laws for the time being in force thereunder, grant, give and issue under his signature all licences and permissions which may be granted or given by the municipality or the standing committee under this Act, other than licences for markets or slaughter-houses;

(*f*) receive and recover and credit to the municipal fund all fees payable for licences and permissions granted or given by him under the powers aforesaid;

(*g*) subject to the orders of the president, or of the standing committee or of the municipality, as the case may be, take prompt steps to remove any irregularity pointed out by the auditor appointed under section 210;

(*h*) report to the President and the standing committee all cases of fraud, embezzlement, theft, or loss of municipal money and property.

(*2*) The Chief Officer may—

(*a*) subject to the provisions of sub-section (*4*) fine, reduce, suspend or dismiss any municipal servant whose salary does not exceed Rs. 30 and subject further to the provisions of the rules for the time being in force, any other municipal officer or servant, not being the health officer, engineer or auditor of the municipality:

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[1] This proviso was added by Bom. 7 of 1932, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

Provided that in respect of any punishment other than a fine not exceeding one week's salary his order shall be subject to an appeal either to the standing committee or, if the rules for the time being in force so provide, to the municipality;

(*b*) subject to the provisions of this Act and of the by-laws for the time being in force thereunder, at his discretion suspend, withhold or withdraw any licence, in any case in which he is empowered to grant or give a licence and in which the municipality or the standing committee may suspend, withhold or withdraw such licence;

(*c*) with the sanction of the standing committee, delegate any of his powers or duties to any municipal officer or servant:

Provided that such delegation shall be subject to such limitations, if any, as may be prescribed by the standing committee, and also to control and revision by the Chief Officer.

(*3*) The Chief Officer shall at any time supply any return, statement, account or report or a copy of any document in his charge, called for by the municipality or the standing committee and shall comply with any orders passed by the municipality or the standing committee thereon.

(*4*) The powers conferred on the municipality by or under any of the provisions of this Act to appoint, grant leave of absence to, punish or dismiss any master, teacher or other person employed in a primary or other school vested in or maintained by the municipality, or employed in any educational institution aided by the municipality, shall not be exercised by the Chief Officer.

Appointment of health officer and engineer.

(*5*) (*a*) A municipality may appoint a health officer and an engineer or any one or more of such officers, whether temporarily or permanently.

(*b*) No such officer shall be removable from office, reduced or suspended unless by the assent of at least two-thirds of the whole number of councillors, and no such officer shall be punishable with fine.

Power of Provincial Government to require the removal of a chief officer, health officer or an engineer.

[1][**34A.** (*1*) Notwithstanding anything contained in section 33 and sub-section (*5*) of section 34, it shall be lawful for [2][the Provincial Government] on the recommendation of any municipality supported by a resolution passed by a majority of the councillors present at a special general meeting called for the purpose to make in its discretion an order vetoing the continuance in office of any person holding the appointment of a chief officer, a health officer or an engineer:

Provided that—

(*a*) notwithstanding anything contained in sub-section (*7*) of section 35, no resolution shall be passed by such meeting unless a quorum shall have been present throughout; and

(*b*) no order shall be made under this section unless an inquiry has been made into the matter by such person and in such manner as [2][the Provincial Government] may direct and unless the person affected by the order has been given a reasonable opportunity at the inquiry of explaining the allegations made against him.

(*2*) The tenure of office by any person whose continuance in office is vetoed under sub-section (*1*) shall cease and determine on and from such date as may be appointed by [2][the Provincial Government], in that behalf].

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[1] This section was inserted by Bom. 3 of 1930, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

CHAPTER III.

CONDUCT OF BUSINESS.

(1) *Municipal Meetings.*

35. The following provisions shall be observed with respect to the meetings of a municipality :— Provisions in regard to meetings of a municipality.

(1) There shall be held four ordinary general meetings in each year for the disposal of general business, on or about the tenth day of the months of January, April, July and October, respectively, and such other ordinary general meetings as the president may find necessary. It shall be the duty of the president to fix the dates for all ordinary general meetings. Ordinary general meetings.

(2) The president may, whenever he thinks fit, and shall, upon the written request of not less than one-fourth of the councillors and for a date not more than fifteen days after the presentation of such request, call a special general meeting. If the president fails to call a special general meeting as provided in this clause the vice-president may call such meeting for a day not more than thirty days after the presentation of such request. Special general meetings.

(3) Seven clear days, notice of an ordinary general meeting, and three clear days' notice of a special general meeting, specifying the time and place at which such meeting is to be held and the business to be transacted thereat shall be served upon the councillors, and posted up at the municipal office or the local kacheri or some other public building in the municipal borough and also published in a local vernacular newspaper having a large circulation if such exists. The said notice shall include any motion or proposition whereof a councillor shall have given written notice, not less than ten clear days previous to the meeting, of his intention to bring forward thereat, and in the case of a special general meeting, any motion or proposition mentioned in any written request made for such meeting. Notice of meetings.

(4) Every meeting of a municipality shall, except for special reasons to be mentioned in the notice convening the meeting, be held in the buildings used as a municipal office by such municipality. Meetings to be held at municipal office.

(5) Every meeting shall, in the absence of both the president and vice-president be presided over by such one of the councillors present as may be chosen by the meeting to be chairman for the occasion, and such chairman shall exercise thereat the powers vested in the president by clause (a) of section 31. Absence of the president and the vice-president.

(6) Every meeting shall be open to the public unless the presiding authority deems any inquiry or deliberation pending before the municipality such as should be held in private : Meeting must ordinarily be open to the public.

Provided that the said authority may at any time cause any person to be removed who interrupts the proceedings :

Provided further that the presiding authority may cause to be removed from the meeting any councillor who does not obey his ruling.

(7) If less than one-third of the whole number of councillors be present at a meeting at any time from the beginning to the end thereof the presiding authority shall after waiting for not more than 30 minutes adjourn the meeting to such hour on the following or some other future day as he may reasonably fix; a notice of such adjournment shall be fixed up in the municipal office, and the Adjournment in absence of quorum.

business which would have been brought before the original meeting, had there been a quorum thereat, shall be brought before the adjourned meeting and may be disposed of at such meeting or at any subsequent adjournment thereof whether there be a quorum present or not.

Business to be transacted at meetings and order of business.

(*8*) Except with the permission of the presiding authority which permission shall not be given in the case of a motion or proposition to modify or cancel any resolution within three months after the passing thereof, no business shall be transacted and no proposition shall be discussed at any general meeting unless it has been entered in the notice convening such meeting or, in the case of a special general meeting, in the written request for such meeting. The order in which any business or proposition shall be brought forward at such meeting, shall be determined by the presiding authority, who in case it is proposed by any member to give priority to any particular item of such business or to any particular proposition, shall put the proposal to the meeting and be guided by the majority of votes given for or against the proposal.

Minutes of proceedings.

(*9*) In every municipality there shall be kept in the vernacular language and if any councillor so desire, in English also, minutes of the names of the councillors and of the Government officers, if any, present under the provisions of sub-section (*14*), and of the proceedings at each general meeting, in a book to be provided for this purpose; such minutes shall be signed, as soon as practicable, by the presiding authority and shall at all reasonable times be open to inspection by any inhabitant of the municipal borough.

Questions decided by majority of votes.

(*10*) All questions shall be decided by a majority of votes of the councillors present and voting, the presiding authority having a second or casting vote in all cases of equality of votes. Votes shall be taken and results recorded in such manner as may be prescribed by rules in that behalf for the time being in force under clause (*a*) of section 58.

Adjournments.

(*11*) Any general meeting may, with the consent of a majority of the councillors present, be adjourned from time to time to a later hour on the same day or to any other day; but no business shall be transacted at any adjourned meeting other than that left undisposed of at the meeting from which the adjournment took place.

A notice of such adjournment posted in the Municipal office shall be deemed sufficient notice of the adjournment meeting.

Modification and cancellation of resolutions.

(*12*) No resolution of a municipality shall be modified or cancelled within three months after the passing thereof, except by a resolution supported by not less than one-half of the whole number of councillors and passed at a general meeting, whereof notice shall have been given fulfilling the requirements of sub-section (*3*) and setting forth fully the resolution which it is proposed to modify or cancel at such meeting and the motion or proposition for the modification or cancellation of such resolution.

Notice of certain business to be given to the Government Executive Engineer or Educational Inspector.

(*13*) Except for reasons which the presiding authority deems urgent, no business relating to any work which is being executed for the municipality by a Government Executive Engineer or to any educational matter, shall be transacted at any meeting of a municipality unless, at least fifteen days previous to such meeting a letter has been addressed to the said Executive Engineer or to the Deputy Educational Inspector of the district, informing him of the intention to transact such business thereat, and of the motions or propositions to be brought forward concerning such business.

(*14*) (*a*) The members of the Sanitary Board, and the Executive Engineer, Deputy Educational Inspector and the Assistant Director of Public Health, and the Civil Surgeon in a district when charged with any of the duties of a health officer therein, if not members of a municipality within the district, shall have the right of being present at any meeting of such municipality; with the consent of the municipality, each of them may take part at such meeting in the discussion or consideration of any question on which, in virtue of the duties of his office, he considers his opinion or the information which he can supply will be useful to such municipality:

Certain Government officers may attend and may be required to attend meetings.

Provided that the said officers shall not, unless they are members of the municipality be entitled to vote upon any such question.

(*b*) If it shall appear to a municipality that the presence of the Executive Engineer, Deputy Educational Inspector, Assistant Director of Public Health or Civil Surgeon of or in the district is desirable for the purpose aforesaid at any meeting of such municipality, it shall be competent to such municipality, by letter addressed to such officer not less than fifteen days previous to the intended meeting, to require his presence thereat; and the said officer unless prevented by sickness or other reasonable cause, shall be bound to attend such meeting:

Provided that such officer on receipt of such letter may, if unable to be present himself, instruct a Deputy or Assistant or other competent subordinate as to his views, and may send him to the meeting as his representative instead of appearing thereat in person.

36. The Chief Officer shall be present at every meeting of the municipality, and may with the permission of the president or of the municipality make an explanation or a statement of facts in regard to any subject under discussion at such meeting, but shall not vote upon or make any proposition at such meeting.

The Chief Officer to be present at every meeting of the municipality but not to vote upon or make any proposition.

(*2*) *Committees.*

37. (*1*) In every municipality there shall be a committee called the standing committee consisting of such number of councillors not being more than twelve nor less than six, as the municipality may determine and elected by the municipality in accordance with rules framed under section 58, clause (*a*). The members so elected shall hold office for a period of one year.

Standing committee.

(*2*) The standing committee shall exercise the functions allotted to it under this Act and subject to any limitations prescribed by the municipality especially in this behalf or generally by rules made under clause (*a*) of section 58, and to the provisions of section 34, [1][37A] and 38, shall exercise all the powers of the municipality.

Powers of standing committees.

[2][**37A.** (*1*) In every municipality notified by [3][the Provincial Government] in this behalf there shall be a committee called the Pilgrim Committee consisting [4][of four councillors of whom one shall be the President of the municipality and the other three shall be elected in accordance with rules made under clause (*a*) of section 58 and of two persons appointed by the Provincial Government, both of whom may be salaried servants of the Crown].

Pilgrim Committee.

[1] These figures and letter were inserted by Bom. 4 of 1930, s. 4.

[2] This section was inserted, *ibid.*

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] These words, figures, letter and brackets were substituted for the original by Bom. 9 of 1938, s. 8.

(2) The members of the Pilgrim Committee shall hold office for the duration of the municipality and thereafter up to the date on which a new Pilgrim Committee is constituted in accordance with the provisions of this section.

In the case of supersession of the municipality or of the Pilgrim Committee, a new Pilgrim Committee shall be constituted by the Commissioner. Such Committee shall consist of six persons nominated by the Commissioner and shall continue until the municipality is re-established, and a new Pilgrim Committee is constituted in accordance with the provisions of this section, or, in case of supersession of the Pilgrim Committee, until the Pilgrim Committee is re-established.

(3) The Pilgrim Committee shall manage and administer the pilgrim fund established under proviso (c) to section 65 and shall exercise the powers and perform the duties of the municipality in respect of the said fund [1][and of works constructed or maintained out of the said fund and shall exercise such other powers and perform such other duties as may be allotted to it by the municipality] subject to such limitations and restrictions as may be prescribed by the municipality by rules made in this behalf under clause (*aa*) of section 58.

(4) All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable, so far as may be, to the members nominated on the Pilgrim Committee.

(5) In the event of the death, resignation, disqualification, disability or removal of a nominated member previous to the expiry of his term of office, the vacancy shall be filled up by the appointment of a person thereto who shall hold office so long only as the person in whose place he is appointed would have held it if the vacancy had not occurred.

(6) Section 45 shall not apply to the Pilgrim Committee ; provided that the municipality shall have power, at any time, to call for any extract from any proceedings of the Pilgrim Committee and for any return, statement of account or report concerning or connected with any matter with which the Pilgrim Committee deals and every such requisition shall, without unreasonable delay, be complied with by the Pilgrim Committee.

(7) The provisions of sections 210, 211 and 212 shall, so far as may be, apply to the Pilgrim Fund Account and the Pilgrim Committee shall, with respect to the preparation and submission to the municipality of its annual budget, follow the following procedure, namely :—

"The Pilgrim Committee shall in sufficient time submit its annual budget and all alterations therein to the municipality for consideration, and, if the municipality agree to it, for its incorporation in the general municipal budget. If the municipality do not agree to the budget as framed by the Pilgrim Committee, they shall return it to the Pilgrim Committee for reconsideration, either in whole or in part, together with any alterations, which they may recommend, and if the Pilgrim Committee agrees to those alterations, the budget so altered shall be incorporated in the general municipal budget. If the municipality and the Pilgrim Committee fail to reach an agreement, the budget with a statement of the points in disputes, shall be referred by the municipality to the Commissioner, whose decision on such points shall be final."

(8) The provisions of sections 213, 214, 215, 218 and 219 shall apply to a Pilgrim Committee and in their application to a Pilgrim Committee the said sections shall be construed so far as may be, as if for the word "municipality" occurring in the said sections the words "Pilgrim Committee" were substituted.]

[1] These words were inserted by Bom. 19 of 1935, s. 6.

38. (*1*) Notwithstanding anything contained in section 37 (*2*) other committees consisting of such number of councillors as the municipality may decide, may be appointed to exercise the powers and perform the duties of the municipality in respect of any purpose [1][not being, where a Pilgrim Committee is appointed, powers of duties referred to in section 37A]. The standing committee shall not exercise any powers or perform any duties which such committee has been appointed to exercise or, perform. Other executive committees.

(*2*) The members of such committees shall be elected by the municipality in accordance with the rules framed under clause (*a*) of section 58 and such members shall hold office for a period of one year.

39. A municipality may from time to time appoint such other committees consisting of such councillors as it thinks fit, and may refer to such committees for inquiry and report or for opinion such special subjects relating to the purposes of this Act as the municipality shall think fit, and may at any time discontinue or alter the constitution of any such committee. The municipality may direct that the report of any such committee shall be made to the standing committee, or to a committee appointed under section 38, instead of to the municipality. Consultative committees.

40. Notwithstanding anything contained in this Act, it shall be lawful for a municipality from time to time by a resolution supported by not less than one-half of the whole number of councillors, to elect as members of any committee appointed under section 38 or 39 any person of either sex, who is not a councillor but who in the opinion of such municipality possesses special qualifications for serving on such committee; provided that the number of persons so elected on any committee shall not exceed one-third of the total number of the members of such committee. When persons other than councillors may serve on committees.

All the provisions of this Act relating to the duties, powers, liabilities, disqualifications and disabilities of councillors shall be applicable so far as may be to such persons. Duties, etc., of such persons.

41. A vacancy occurring in a standing committee or in a committee appointed under section 38 shall, as soon as possible, and a vacancy occurring in any other committee may, be filled up by the election of a member thereto subject to the same provisions as those under which the member whose place is to be filled up was elected. A person elected under this section shall hold office so long only as the person in whose place he is elected would have held it if the vacancy had not occurred. No person shall be ineligible at any time for election as a member of any such committee on the ground that he has previously been a member of that committee. Casual vacancies; re-eligibility.

42. (*1*) The president or vice-president, if elected a member of any committee, shall be *ex-officio* chairman thereof: *Ex-officio* and appointed chairman.

[2][Provided that in the case of a Pilgrim Committee the President shall be *ex-officio* Chairman thereof.] Non-attendance of chairman.

(*2*) A municipality may appoint a chairman for a committee of which there is no *ex-officio* chairman.

(*3*) A committee of which there is an *ex-officio* chairman or a chairman appointed by the municipality, shall, at each meeting which such chairman does not attend, appoint from its members a chairman for such meeting.

(*4*) A committee, of which there is no *ex-officio* chairman or chairman appointed by the municipality, shall appoint from time to time a chairman from the members of such committee.

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[1] These words, figures and letters were inserted by Bom. 4 of 1930, s. 4.

[2] This proviso was added, *ibid.*

Procedure at meetings.

43. (*1*) The provisions of sub-sections (*4*), (*9*), (*10*) and (*14*) of section 35 shall be complied with in all proceedings of committees as if meetings of committees were included in all references to meetings of a municipality contained in those provisions, and as if for the word "municipality" where it occurs in the proviso to clause (*a*) of sub-section (*14*) of section 35, there was substituted the word "committee."

If the chairman of any committee has been absent from the municipal borough for a period exceeding fifteen days, the president or vice-president may, in his absence, call a meeting thereof:

Provided that, notwithstanding anything to the contrary contained in sub-section (*9*) of section 35, a committee may record its proceedings either in English or in the vernacular language, as it may think fit.

Meeting and adjournment of committees.

(*2*) A committee may meet and adjourn as it thinks proper; but the chairman of a committee may whenever he thinks fit, and shall, upon the written request of the president of the municipality or of not less than two members of the committee and for a date not more than two days after the presentation of such request, call a special meeting of such committee.

Quorum.

(*3*) No business shall be transacted at any meeting of a committee unless more than one-third of the members of the committee be present thereat.

Procedure by circular.

44. (*1*) Notwithstanding anything contained in section 43 the chairman of a committee may, instead of convening a meeting, circulate a written proposition of his own or of any other member of the committee or of any executive officer of the municipality for the observations and votes of the members of the committee.

Propositions when to be sent to Government officers for remarks.

(*2*) Previous to circulating any such proposition as aforesaid, the chairman may, if he thinks fit, and, if the business to which it relates is of the nature described in sub-section (*13*) of section 35, shall obtain thereupon the remarks, if any, which any Government officer whose presence the municipality would be entitled to require under the provisions of clause (*b*) of sub-section (*14*) of section 35, desires to record.

Decisions how to be taken on propositions circulated.

(*3*) The decision on any proposition so circulated shall be in accordance with the majority of votes of the members of the committee who vote upon it, unless a special meeting is convened to consider the said proposition.

And how to be recorded.

(*4*) Every decision arrived at by a committee under this section shall be recorded in the minute book.

Subordination of committees to municipality.

45. (*1*) A committee shall conform to any instructions that may from time to time be given to it by the municipality; the municipality may at any time call for any extract from any proceedings of any committee and for any return, statement, account or report in connection with any matter with which any committee has been authorized or directed to deal; every such requisition shall, without unreasonable delay, be complied with by the committee so called upon.

(*2*) Every order passed by a standing committee or by a committee appointed under section 38, other than orders under sub-section (*3*) of section 81, shall be subject to such revision and open to such appeal as may be required or allowed in respect thereof by any rules of the municipality for the time being in force under section 58.

46. Any powers or duties or executive functions which may be exercised or performed by or on behalf of the municipality may be delegated in accordance with rules to be made by the municipality in this behalf, to the president or to the vice-president or to the chairman of the school or other committee, or to one or more stipendiary or honorary officers, but without prejudice to any powers that may have been conferred on the Chief Officer by this Act or on any committee by or under section 37, [1][37A] or 38, and each person, who exercises any power or performs any duty or function so delegated, may be paid all expenses necessarily incurred by him therein.

Powers, duties and functions may be delegated to officers whose expenses may be paid.

(3) *Joint transactions with other bodies.*

47. (1) A municipality may from time to time—

Joint committees of local bodies. Joint levy of octroi.

(a) join with any other municipality or with any local board, cantonment authority, sanitary board, sanitary committee or committee appointed for a notified area or with any combination of such municipalities, boards, authorities or committees—

(i) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested, and in appointing a chairman of such committee; and

(ii) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work, and any power which might be exercised by any of such bodies; and

(iii) in framing and modifying rules for regulating the proceedings of any such committee in respect of the purpose for which the committee is appointed; and

(b) enter, subject to the sanction of [2][the Provincial Government], into an agreement with a municipality, cantonment authority, board, committee or combination as aforesaid for the levy of octroi duty and tolls whereby the octroi duties and tolls repectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

[3][(1A) Where a municipality has requested the concurrence of any other local authority under the provisions of sub-section (1) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit, requiring the concurrence of such other local authority, not being cantonment authority, in the matter aforesaid; and such other local authority shall comply with such orders.]

(2) If any difference of opinion arises between bodies having joined or entered into an agreement for any purpose under this section, the decision thereupon of [2][the Provincial Government] or of such officer as it appoints in this behalf, shall be final:

[4][Provided that if one of the bodies concerned is a cantonment authority, any such decision shall be subject to the concurrence of the Central Government].

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[1] These figures and letters were inserted by Bom. 4 of 1930, s. 4.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This sub-section was inserted by Bom. 14 of 1934, s. 4.

[4] This proviso was inserted by the Adaptation of Indian Laws Order in Council.

(4) Contracts.

Power of municipality to sell, lease and contract.

48. (*1*) A municipality shall be competent, subject to the restriction contained in sub-section (*2*), to lease, sell or otherwise transfer any moveable or immovable property which may, for the purposes of this Act have become vested in or been acquired by it; and so far as is not inconsistent with the provisions and purposes of this Act, to enter into and perform all such contracts as it may consider necessary or expedient in order to carry into effect the said provisions and purposes.

(*2*) In the case of every lease or sale of land under sub-section (*1*) of section 114 and of a lease of immovable property for a term exceeding seven years and of every sale or other transfer of such property, the previous sanction of the Commissioner is required.

Sanction by resolution at general meeting requisite to validity of certain contracts.

(*3*) In the case—

(*a*) of a lease for a period exceeding one year or of a sale or other transfer or contract for the purchase of any immovable property;

(*b*) of every contract which will involve expenditure not covered by a budget grant;

(*c*) of every contract the performance of which cannot be completed within the official year current at the date of the contract;

the sanction of the municipality by a resolution passed at a general meeting is required.

Execution of contracts on behalf of municipality.

(*4*) In a municiplity—

(*a*) every contract under or for any purpose of this Act shall be made on behalf of the municipality by the Chief Officer;

(*b*) no such contract for any purpose which the Chief Officer is not empowered by this Act to carry out without the approval or sanction of some other municipal authority, shall be made by him until or unless such approval or sanction has first of all been duly given;

(*c*) no contract which will involve an expenditure exceeding three hundred rupees shall be made by the Chief Officer unless otherwise authorized in this behalf by the municipality except with the approval or sanction of the standing committee;

(*d*) every contract made by the Chief Officer involving an expenditure exceeding two hundred rupees and not exceeding three hundred rupees shall be reported by him, within fifteen days after the same has been made, to the standing committee;

(*e*) the foregoing provisions of this section shall apply to every variation or discharge of a contract to the same extent as to an original contract.

(*5*) No contract shall be binding on a municipality unless the requirements of this section have been complied with.

Mode of executing contracts.

49. (*1*) Every contract entered into by a Chief Officer on behalf of a municipality shall be entered into in such manner and form as would bind such Chief Officer if such contract were on his own behalf, and may in the like manner and form be varied or discharged:

Provided that—

(*a*) where any such contract, if entered into by a Chief Officer, would require to be under seal, the same shall be sealed with the common seal of the municipality:

(*b*) every contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding five hundred rupees, shall be in writing, and shall be sealed with the common seal of the municipality and shall specify the work to be done or the materials or goods to be supplied, as the case may be, the price to be paid for such work, materials or goods and in the case of a contract for work, the time or times within which the same or specified portions thereof shall be completed.

(*2*) The common seal of the municipality shall not be affixed to any contract or other instrument except in the presence of two members of the standing committee, who shall attach their signatures to the contract or instrument in token that the same was sealed in their presence. The signatures of the said members shall be distinct from the signatures of any witnesses to the execution of any such contract or instrument.

(*3*) A contract not executed in the manner provided in this section shall not be binding on the municipality.

Tenders to be invited for contracts involving expenditure exceeding Rs. 1,000.

50. (*1*) Except as is otherwise provided in sub section (*3*), a Chief Officer shall, at least seven days before entering into any contract for the execution of any work or the supply of any materials or goods which will involve an expenditure exceeding one thousand rupees, give notice by advertisement in a local newspaper, inviting tenders for such contract.

(*2*) The Chief Officer shall not be bound to accept any tender which may be made in pursuance of such notice, but may, with the approval of the standing committee, accept any of the tenders so made which appears to him, upon a view of all the circumstances, to be the most advantageous or may reject all the tenders submitted to him.

(*3*) A municipality may authorise the Chief Officer, for reasons which shall be recorded in its proceedings, to enter into a contract without inviting tenders as herein provided or without accepting any tenders which he may receive after having invited them.

Security when to be taken for performance of contract.

51. A Chief Officer shall require security for the due performance of every contract into which he enters under section 50 and may, in his discretion, require security for the due performance of any other contract into which he enters under this Act.

(*5*) *Compulsory acquisition of land.*

Recourse to the Land Acquisition Act, 1894.

52. When there is any hinderance to the permanent or temporary acquisition by a municipality upon payment of any land or building required for the purposes of this Act, [1][the Provincial Government] may, after obtaining possession of the same for itself under the [2][Land Acquisition Act, 1894, or other existing law, vest such land or building in the municipality on its paying the compensation awarded, and on its repaying to [3][the Provincial Government] all costs incurred by [3][the Provincial Government] on account of the acquisition.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] *See* Central Acts.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(6) Liabilities of councillors, officers and servants.

Councillors to be held responsible for misapplied funds.

53. Every councillor shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by gross neglect of his duty as a councillor and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of [1][the Crown for the purposes of the Province]:

Provided that no councillor shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of the municipality; the funds at the disposal of each municipality shall be liable for, and be charged with, all costs in respect of any such contract or agreement and all such expenses.

Officer or servant of municipality not to be interested in contract with such municipality.

54. (*1*) Any person who has directly or indirectly, by himself or his partner, any share or interest in any contract with, by or on behalf of a municipality, or in any employment with, under, by or on behalf of a municipality, other than as a municipal officer or servant, shall be disqualified for being an officer or servant of such municipality.

(*2*) Any municipal officer or servant who shall acquire, directly or indirectly, by himself or his partner, any share or interest in any such contract or employment as aforesaid, shall cease to be a municipal officer or servant, and his office shall become vacant..

(*3*) Nothing in this section shall apply to any such share or interest in any contract or employment—with, under, by or on behalf of a municipality, as under clauses (*i*), (*ii*) and (*iv*) of sub-section (*3*) of section 12, it is permissible for a person to have without his being thereby disqualified from becoming a councillor.

Penalty for councillor, officer or servant of a municipality being interested in contract, etc., with that municipality.

55. (*a*) Any councillor who knowingly acquires directly or indirectly any share or interest in any contract or employment with, under, by or on behalf of a municipality of which he is a member, not being a share or interest such as under section 12 it is permissible for a person to have without being thereby disqualified from becoming a councillor, and

(*b*) any municipal officer or servant who knowingly acquires directly or indirectly any share or interest in any contract, or, except in so far as concerns his own employment as municipal officer or servant, in any employment with, under, by or on behalf of a municipality of which he is an officer or servant, not being a share or interest such as under clauses (*i*) and (*iv*) of sub-section (*3*) of section 12—it is permissible for a person to have without being thereby disqualified from becoming a councillor,

shall be liable, on conviction before a criminal court, to a fine which may extend to five hundred rupees.

Councillors, etc., to be deemed public servants.

56. (*1*) Every municipal councillor, officer or servant and every lessee of the levy of any municipal tax, and every servant or other person employed by any such lessee shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

(*2*) The word "Government" in the definition of "legal remuneration" in section 161 of that Code shall, for the purposes of sub-section (*1*) of this section, be deemed to include a municipality.

[1] The words "the Crown for the purposes of the Province" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(7) Validity of proceedings.

57. (*1*) No disqualification of or defect in the election or appointment of any person acting as councillor or as the president or presiding authority of a general meeting or as chairman or member of a committee appointed under this Act shall be deemed to vitiate any act or proceeding of the municipality or of any such committee, as the case may be, in which such person has taken part, whenever the majority of persons, parties to such act or proceeding, were entitled to act. Acts and proceedings of municipality and committee not vitiated by disqualifications, etc., of members thereof.

No resolution of a municipality or of any committee appointed under this Act shall be deemed invalid on account of any irregularity in the service of notice, upon any councillor or member, provided that the proceedings of the municipality or committee, were not prejudicially affected by such irregularity.

(*2*) Until the contrary is proved every meeting of a municipality or of a committee appointed under this Act in respect of proceedings whereof a minute has been made and signed in accordance with this Act, shall be deemed to have been duly convened and held and all the members of the meeting shall be deemed to have been duly qualified; and where the proceedings are the proceedings of a committee, such committee shall be deemed to have been duly constituted and to have had the power to deal with the matters referred to in the minute. Proceedings presumed to be good and valid.

(*3*) During any vacancy in a municipality or committee the continuing councillors or members may act as if no vacancy had occurred. Vacancy not to affect proceedings.

CHAPTER IV.

Rules and By-Laws.

58. A municipality shall make rules not inconsistent with this Act and may from time to time alter or rescind them— Municipalities to make rules.

(*a*) regulating the conduct of its business and the delegation of any of its powers or duties to any committee or to the Chief Officer or [1][subject to the provisions of section 37A] the powers or duties of any committee to any other committee or to the Chief Officer and the appointment and constitution of committees;

[2][(*aa*) prescribing the limitations and restrictions subject to which the Pilgrim Committee shall exercise the powers and perform the duties of the municipality in respect of the Pilgrim Fund.]

(*b*) determining the executive functions to be performed by the president, vice-president and the chairman of any committee; Defining the functions of the president and others;

(*c*) determining the staff of officers and servants to be employed by the municipality and the respective designations salaries, fees and absentee or other allowances of such officers and servants and their powers and duties; establishment;

(*d*) generally for the guidance of its officers and servants in all matters relating to the municipal administration; general guidance of municipal servants;

(*e*) fixing the amount and nature of the security to be furnished by any officer or servant from whom it may be deemed expedient to require security; amount of security;

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[1] These words, figures and letter were inserted by Bom. 4 of 1930, s. 4.
[2] This clause was inserted, *ibid.*

mode of appointing, etc., municipal servants;

(*f*) determining subject to the limitations imposed by sections [1][33, 34 (5) and 34A,] the mode and conditions of appointing, punishing, or dismissing any officer or servant; and delegating to officers designated in the rules the power to appoint, fine, reduce, suspend or dismiss any officer or servant;

leave to municipal servants;

(*g*) regulating the grant of leave to its officers or servants, and fixing the remuneration to be paid to the persons, if any, appointed to act for them whilst on leave;

pensions, etc.;

(*h*) regulating the period of service of its officers and servants and determining the conditions under which such officers and servants or any of them shall receive pensions, gratuities or compassionate allowances on retirement or on their becoming disabled through the execution of their duty, and the amount of such pensions, gratuities or compassionate allowances; and prescribing the conditions under which any gratuities or compassionate allowances may be paid to the surviving relatives of any such officers or servants whose death has been caused through the execution of their duty;

provident funds;

(*i*) authorizing the payment of contributions at such rates and subject to such conditions as may be prescribed in such rules, to any pension or provident fund which may be established by the municipality or, with the approval of the municipality, by its officers and servants;

prescribing taxes;

(*j*) prescribing the taxes to be levied in the municipal borough for municipal purposes, the circumstances in which exemption will be allowed, the conditions on which and the extent to which remissions will be granted, and the system on which refunds will be allowed and paid, in respect of such taxes; the limits of the charges or payments to be fixed in lieu of any tax under section 91, the fees to be charged for licences or permissions granted under section 90 and for giving copies and stamping weights and measures; the fees for notices demanding payments due on account of any tax and for the [2][issue and] execution of warrants of distress and the rates to be charged for maintaining any live-stock distrained; and the time at which and the mode in which such taxes, charges, payments, fees or rates shall be levied or recovered or be payable and the persons authorised to receive payment of the same and the manner in which auctions of moveable and immovable property under section 106 shall be held;

writing off amounts due.

(*k*) prescribing the conditions subject to which sums due on account of any tax or of costs in recovering any tax may be written off as irrecoverable and the conditions subject to which the whole or any part of any fee chargeable for distress may be remitted by the standing committee:

Provided that—

Approval required to rules.

(*a*) no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [3][the Provincial Government];

Officers transferred from or to the service of the Crown.

[4][(*b*) if an officer serving or having served under a municipality has been, or is, transferred from or to the service of the Crown, or is partly employed by the Crown and partly by a municipality, the municipality shall make such contributions to his pension and leave allowances as may be required, by the conditions of his service under the Crown, to be made by him or on his behalf.]

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[1] These figures, word, letter and brackets were substituted for the figures, word and brackets "33 and 34(5)" by Bom. 3 of 1930, s. 3.

[2] The words "issue and" were inserted by Bom. 12 of 1931, s. 3 (*i*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[4] The proviso (*b*) was substituted for the original proviso (*b*), *ibid.*

(c) a municipality shall not unless with the assent of [1][the government concerned] dispense with the services of any officer transferred from the service of [2][the Crown] to the service of the municipality or employed partly by [2][the Crown] and partly by the municipality, or finally dismiss from the service of the municipality any officer transferred from the service of the municipality to the service of [2][the Crown] without giving [1][the government concerned] six months' previous notice. Notice required in certain cases of dismissal.

[3][**58A.** A municipality may, at its discretion, make rules, not inconsistent with this Act, determining the conditions under which gratuities or compassionate allowances may be paid to the surviving relatives of its officers and servants or any of them who die during service and the amount of such gratuities or compassionate allowances: Discretionary power to make rules.

Provided that no rule or alteration or rescission of a rule made under this section shall have effect unless and until it has been approved by [4][the Provincial Government].

59. (*1*) Notwithstanding anything contained in clause (*a*) of the proviso to section 58, the approval required to be given in respect of rules framed under clause (*c*) of section 58 may be given by the Commissioner instead of by [5][the Provincial Government], subject to the condition, that any such rules relating to Chief Officers, health officers or engineers or to the salaries, fees or absentee or other allowances of such officers shall require the sanction of [4][the Provincial Government]. Rules made with approval of Commissioner or without approval.

(*2*) Notwithstanding anything contained in clause (*a*) of the proviso to section 58 or in sub-section (*1*) of this section, a municipality shall have power to make without sanction a rule under clause (*c*) of section 58, creating an appointment or increasing the salary of an appointment or granting or increasing an allowance in any case where the salary of such appointment or the amount of such allowance or the amount of such increase, as the case may be, does not involve a charge on the municipal fund exceeding rupees one hundred in the month:

Provided that [4][the Provincial Government] may withdraw this power from any municipality either permanently or for such period as they think fit to prescribe when in their opinion there are good reasons for doing so.

60. (*1*) Subject to the requirements of clause (*a*) of the proviso to section 58 a municipality may, except as otherwise provided in clause (*b*) of the proviso to section 103 at any time for any sufficient reason, suspend, modify or abolish any existing tax by suspending, altering or rescinding any rule prescribing such tax. Power to suspend, reduce or abolish any existing tax.

(*2*) The provisions of Chapter VII relating to the imposition of taxes shall apply so far as may be to the suspension, modification or abolition of any tax and to the suspension, alteration or rescission of any rule prescribing a tax.

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[1] The words "the government concerned" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Crown" were substituted for the words "the Government", *ibid.*

[3] This section was inserted by Bom. 9 of 1930, s. 2.

[4] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "the Provincial Government" were substituted for the word "Government" *ibid.*

Power to make by-laws;

61. (*1*) A municipality, may from time to time, with the previous sanction of [1][the Provincial Government] make, alter or rescind by-laws not inconsistent with this Act—

markets and slaughter-houses, etc.;

(*a*) for the regulation and inspection of markets and slaughter-houses and all places used by or for animals which are for sale or hire, or the produce of which is sold, and for the proper and cleanly conduct of business therein; and for fixing the rents and other charges to be levied for the use of any of them which belong to the municipality, for regulating the sale of fruit and vegetables in the municipal market or other specified places;

Licensing, regulating and inspecting certain businesses;

(*b*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the use of any place not belonging to the municipality—

(*i*) as a slaughter-house;

(*ii*) for the manufacture, preparation, storing, sale or supply for the purpose of trade of any article or thing intended for human food or drink, whether such food or drink is to be consumed in such place or not;

(*iii*) for any of the purposes mentioned in sub-section (*1*) of section 186;

and providing for the inspection and regulation of the conduct of business in any place used as aforesaid, so as to secure cleanliness therein or to minimise any injurious, offensive or dangerous effect arising or likely to arise therefrom;

use of steam whistles, etc.;

(*c*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licences may be granted, refused, suspended or withdrawn for the use of whistles and trumpets operated by steam or mechanical means in factories or other places for the purpose of summoning or dismissing workmen, or persons employed;

Pilgrims' lodging houses;

(*d*) prescribing the conditions on or subject to which and the circumstances in which and the areas or localities in respect of which licenses may be granted, refused, suspended or withdrawn for the use of any place or building for the purpose of lodging pilgrims, and providing for the inspection and regulation of such places or buildings;

stalling of cattle, etc;

(*e*) prohibiting the stalling or herding of horses camels, cattle, donkeys, sheep or goats otherwise than in accordance with such regulations prescribed in such by-laws in regard to the number thereof, and the places to be used for the purpose, as may be necessary to prevent danger to the public health;

milk shops;

(*f*) prescribing the conditions on which sweet-meats may be sold and on which licences may be granted, refused, suspended, or withdrawn for the use, for purposes of trade, of any place for stabling milch cattle, for storing or selling milk, or for making, storing or selling butter or other milk products;

for regulating dairies and cattle-sheds,

(*g*) (*i*) for the inspection of milch cattle; and prescribing and regulating the construction, dimensions, ventilation, lighting, cleansing, drainage and water supply of dairies and cattle-sheds in the occupation of persons following the trade of dairy-men or milk sellers;

milk stores, etc;

(*ii*) for securing the cleanliness of milk-stores, milk-shops and vessels used by milk-sellers or buttermen for milk or butter;

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[1](*h*) * * * * *

[1](*i*) * * * * *

(*j*) for the registration of births, deaths, and marriages [2]* * * * within the municipal borough and for enforcing the supply of such information as may be necessary to make such registration [3]* * * effective; registration of births, etc.;

(*k*) regulating the disposal of the dead and the maintenance of all places for the disposal of the dead in good order and in a safe sanitary condition, due regard being had to the religious usages of the community or section of the community entitled to the use of such places for the disposal of the dead; regulating the disposal of the dead;

(*l*) for enforcing the supplyof information as to any cases of dangerous disease, and carrying out the provisions of sections 179 and 180; for enforcing supply of information as to epidemics;

(*m*) for enforcing the supply of such information by inhabitants of the municipal borough as may be necessary to ascertain their respective liabilities to any tax imposed therein; for enforcing information as to liability to municipal taxation;

(*n*) fixing octroi limits and stations; providing for the exhibition of tables of octroi; regulating, subject to any general or special orders which [4][the Provincial Government] may make in this behalf, the system, under which refunds are to be made on account thereof when the animals or goods on which the octroi has been paid, or articles manufactured wholly or in part from such animals or goods, are again exported, and the custody or storage or goods declared not to be intended for use or consumption within the municipal borough; and prescribing a period of limitation after which no claim for refund of octroi shall be entertained and the minimum amount for which any claim to refund may be made; octroi;

(*o*) fixing terminal tax limits and stations, providing for the exhibition of tables of terminal tax, and regulating the mode of recovery of such tax; terminal tax;

(*p*) for conserving and preventing injury to sources and means of water supply and appliances for the distribution of water, whether within or without the limits of the municipal borough, and regulating all matters and things connected with the supply and use of water and the turning on or turning off and preventing the waste of water, and the construction, maintenance and control of municipal water-works, and of pipes and fittings in connection therewith, whether the property of the municipality or not; for protecting water;

Explanation.—Sources and means of water supply shall include private well which are used by the public.

(*q*) regulating the use of public bathing and washing places within the municipal borough; public baths, etc.;

(*r*) regulating sanitation and conservancy and the disposal of the carcasses of dead animals; conservancy;

(*s*) regulating the conditions on which permission may be given for the temporary occupation of, or the erection of temporary structures on public streets or for projections over public streets; temporary structures and buildings;

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[1] On the coming into force of Part VI of the Bombay Weights and Measures Act, 1932 (Bom. 15 of 1932) in any area, clauses (*h*) and (*i*) shall be deemed to have been repealed.—(*Vide* Bom. 15 of 1932, s. 47 and Second Schedule, Part II). Clauses (*h*) and (*i*) run as follows:—

"(*h*) for the inspection of weights and measures under section 177 and for the stamping of weights and measures and for charging fees for the same;

(*i*) for defining the standard weights and measures used within the municipal borough;"

[2] The words "and the taking of a census" were omitted by the Adaptation of Indian Laws Order in Council.

[3] The words "or census" were omitted, *ibid.*

[4] The words "the Provincial Government" were substituted for the words "the Government", *ibid.*

buildings;

(*t*) regulating the structure and dimensions of plinths, walls, foundations, roofs and chimneys of new buildings for the purpose of securing stability and the prevention of fires, and for purposes of health, and determining the purposes for which existing or newly erected buildings may be used in any area;

streets;

(*u*) for preventing the erection of buildings without adequate provision being made for the location and laying out of streets; and for the payment of compensation in such cases when necessary;

ventilation;

(*v*) for ensuring the adequate ventilation of buildings by the provision and maintenance of sufficient open space either internal or external and of doors and windows and other means for securing a free circulation of air;

qualified surveyors;

(*w*) prescribing the qualifications of surveyors or persons by whom plans required under section 123 are to be prepared, or of plumbers; for licensing persons to be surveyors or plumbers and, fixing the fees chargeable for such licences; and for modifying the provisions of or revoking such licences; and prohibiting any alterations or repairs or fittings to water or drainage pipes or house connections being carried out or made except by such persons;

drains;

(*x*) regulating, in any other particular not specifically provided for in this Act, the construction, maintenance and control of drains, sewers, ventilation shafts, receptacles for dung and manure, cesspools, water closets, privies, latrines, urinals and drainage or sewerage works of every description whether the property of the municipality or not;

requiring information and plans in certain cases;

(*y*) determining the information and plans to be required by the municipality under sections 117 and 123;

controlling unwieldy traffic;

(*3*) prohibiting vehicular traffic in any particular street, so as to prevent danger, obstruction or inconvenience to the public, by fixing up posts at both ends of such street or portion of such street, prohibiting the transit of any vehicles of such form, construction, weight or size or laden with such heavy or unwieldy objects as may be deemed likely to cause injury to the roadways or to any construction thereon, or risk or obstruction to other vehicles or to pedestrians along or over any street, except under such conditions as to time, mode of traction or locomotion, use of appliances for protection of the roadway, number of lights and assistants, and other general precautions as may be prescribed either generally in such by-laws or in special licences to be granted in each case upon such terms as to time of application and payment of fees therefor as may be prescribed in such by-laws:

Provided that no such by-law relating only to any particular street or portion of a street shall be deemed to be in force, unless and until notices of such prohibitions shall have been posted up by the municipality in conspicuous places at or near both ends of such street or portion of a street;

public parks;

(*aa*) securing the protection of public parks, gardens and open spaces, vested in or under the control of the municipality, from injury or misuse, regulating their management and the manner in which they may be used by the public, and providing for the proper behaviour of persons in them;

[1](*bb*) prescribing the conditions on or subject to which licences may be granted refused, suspended or withdrawn, for the use of hand-carts, and hand-barrows, other than those plyng for hire in respect of which licences have been granted under the Bombay Public Conveyances Act, 1920, and providing for the seizure and detention of any hand-carts or hand-barrows which have not been duly licensed in pursuance of the by-laws made under this section; Bom. VII of 1920.

[1](*cc*) prescribing the conditions on or subject to which licences may be granted, refused, suspended or withdrawn for hawking or exposing for sale in any public place or street any article whatsoever, whether it be for human consumption or not;

[1] Clauses (*bb*) and (*cc*) were inserted by Bom. 19 of 1935, s. 7 (*i*).

[1](*dd*) prescribing the conditions on or subject to which permission may be granted, renewed, refused, suspended or withdrawn for erecting, exhibiting, fixing or retaining any sky-sign or advertisement, over any land, building or structure.

[1]*Explanation.*—The expression "sky-sign" shall mean any word, letter, model, sign, device or representation in the nature of an advertisement, announcement or direction, supported on or attached to any post, pole, standard, framework or other support wholly or in part upon or over any land, building or structure which, or any part of which sky-sign, shall be visible against the sky from some point in any street and includes all and every part of any such post, pole, standard, framework, or other support. The expression "sky-sign" shall also include any balloon, parachute or other similar device employed wholly or in part for the purposes of any advertisement, announcement or direction upon or over any land, building or structure or upon or over any street, but shall not include—

(*a*) any flagstaff, pole, vane or weather-cock, unless adapted or used wholly or in part for the purpose of any advertisement, announcement or direction;

(*b*) any sign, or any board, frame or other contrivance securely fixed to or on the top of the wall or parapet of any building, or on the cornice or blocking course of any wall, or to the ridge of a roof:

Provided that such board, frame or other contrivance be of one continuous face and not open work, and do not extend in height more than three feet above any part of the wall, parapet or ridge to, against, or on which it is fixed or supported;

(*c*) any word, letter, model, sign, device or representation as aforesaid, relating exclusively to the business of a railway company, and placed wholly upon or over any railway, railway station, yard, platform or station approach belonging to a railway company, and so placed that it cannot fall into any street or public place;

(*d*) any notice of land or building to be sold or let, placed upon such land or building.

[2](*ee*) generally for the regulation of all matters relating to municipal administration; general regulation

and the municipality may, with the like sanction, prescribe a fine not exceeding five hundred rupees for every infringement of any such by-law. Fine may be imposed for infringement of by-laws

[3][(*1a*) A municipality may, from time to time, with the previous sanction of the Central Government, make, alter or rescind by-laws, but not so as to render them inconsistent with this Act, for the taking of a census within the municipal borough and for enforcing the supply of such information as may be necessary to make such census effective.]

(*2*) A municipality shall, before making any by-law under this section, publish in such manner as shall in its opinion be sufficient, for the information of the persons likely to be affected thereby, a draft of the proposed by-law, together with a notice specifying a date on or after which the draft will be taken into consideration; and shall, before making the by-law, receive and consider any objection or suggestion with respect to the draft which may be made in writing by any person before the date so specified. Publication of drafts of proposed by-laws.

(*3*) When any by-law made by a municipality is submitted to [4][the Central or the Provincial Government] for sanction, a copy of the notice published and of every objection or suggestion received under the provisions of sub-section (*2*), shall be submitted for the information of [5][that Government] along with the said by-law. Objections and suggestions to be submitted to Central or Provincial Government

[1] Clause (*dd*) and the Explanation were inserted by Bom. 19 of 1935, s. 7 (*i*).
[2] The original clause (*bb*) was relettered (*ee*), *ibid*, s. 7 (*ii*).
[3] Sub-section (*1a*) was inserted by the Adaptation of Indian Laws Order in Council.
[4] The words "the Central or the Provincial Government" were substituted for the words "the Government", *ibid*.
[5] The words "that Government" were substituted for the words "the Government", *ibid*.

Rules and by-laws to be printed and sold.

62. The rules and by-laws for the time being in force shall be kept open to public inspection at the municipal office at all reasonable times; printed copies thereof and of this Act in the vernacular language of the district and in English shall be kept on sale at cost price.

CHAPTER V.

MUNICIPAL PROPERTY AND FUND.

Power to acquire and hold property for the purposes of the Act.

63. (*1*) A municipality may acquire and hold property both moveable and immovable, whether within or without the limits of the municipal borough.

(*2*) All property of the nature specified in the clauses to this section, not being specially reserved by [1][the Provincial Government], shall be vested in and belong to the municipality, and shall, together with all other property of what nature or kind soever, which may become vested in the municipality, be under its direction, management and control, and shall be held and applied by it is as trustee, subject to the provisions and for the purposes of this Act:—

(*a*) All public town-walls, gates, markets, slaughter-houses, manure and night-soil depots, and public buildings of every description.

(*b*) All public streams, tanks, reservoirs, cisterns, wells, springs, aqueducts, conduits, tunnels, pipes, pumps and other water works; and all bridges, buildings, engines, works, materials and things connected with or appertaining to such water works; and also any adjacent land, not being private property, appertaining to any public tank or well.

(*c*) All public sewers and drains; all sewers, drains, tunnels, culverts, gutters and water-courses in, alongside or under any street, and all works, materials and things appertaining thereto; all dust, dirt, dung, ashes, refuse, animal matter, filth, or rubbish of any kind collected by the municipality from the streets, houses, privies, sewers, cesspools or elsewhere.

(*d*) All public lamps, lamp-posts, and apparatus connected therewith, or appertaining thereto.

(*e*) All lands transferred to it by the [2][Crown], or by gift or otherwise, for local public purposes.

(*f*) All public streets, and the pavements, stones and other materials thereof and also all trees, erections, materials, implements and things provided for such streets.

Decision of claims to property by or against the municipality.

64. (*1*) In any municipal borough to which a survey of lands, other than lands ordinarily used for the purposes of agriculture only, has been or shall be extended under any law for the time being in force, where any property or any right in or over any property is claimed by or on behalf of the municipality, or by any person as against the municipality, it shall be lawful for the Collector after formal enquiry, of which due notice has been given, to pass an order deciding the claim.

(*2*) Any suit instituted in any civil court after the expiration of one year from the date of any order passed by the Collector under sub section (*1*), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined, according to section 204 of the Bombay Land Revenue Code, 1879, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is inconsistent with such order provided that the plaintiff has had due notice of such order.

[1] The words "the Provincial Government" were substituted for the words "the Government", by the Adaptation of Indian Laws Order in Council.

[2] The word "Crown" was substituted for the words "Secretary of State for India in Council", *ibid.*

(3) (a) The powers conferred by this section on a Collector may also be exercised by an Assistant or Deputy Collector or by a Survey Officer as defined in the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

(b) The formal enquiry referred to in this section shall be conducted in accordance with the provisions of the aforesaid Code.

Bom. V of 1879.

(c) Any person shall be deemed to have had due notice of an enquiry or order under this section if notice thereof has been in accordance with rules made in this behalf by [1][the Provincial Government].

65. All moneys received by or on behalf of a municipality by virtue of this or any other Act; all taxes, fines and penalties paid to or levied by it under this Act [2][other than fines imposed by any Court]; all proceeds of land or other property sold by the municipality, and all rents accruing from its land or property; and all interest, profits and other moneys accruing by gift or transfer from the [3][Crown] or private individuals or otherwise, shall constitute the municipal fund, and shall be held and dealt with in a similar manner to the property specified in section 63: Municipal fund.

Provided that—

(a) nothing in this section or in section 63 shall in any way affect any obligation accepted by or imposed upon any municipality by any declarations of trust executed by or on behalf of such municipality or by any scheme settled under the [4]Charitable Endowments Act, 1890, for the administration of any trust, or by a trust of the nature specified in clause (b) of this proviso; Special trusts.

VI of 1890.

(b) a municipality may, subject to the condition that reasonable provision shall be made for the performance of all obligations imposed or that may be imposed on it by or under this Act or any other law for the time being in force, credit to a separate heading in the municipal accounts any portion of the municipal fund received or set apart by it specially for the purposes of schools or dispensaries or water works or fire-brigades or other such purposes as the Commissioner in this behalf approves, and the municipality may apply any sums properly so credited exclusively to the special purposes for which such sums were received or set apart.

[5](c) (1) Every municipality in a municipal borough in which a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough is levied shall, subject to the condition that reasonable provision shall be made for the purposes specified in clause (2), credit the proceeds of the said tax to a separate heading in the municipal account, to be called the "Pilgrim Fund Account".

(2) The purposes for which provision shall be made by a municipality before the proceeds of the pilgrim tax are credited to the Pilgrim Fund Account shall be the following, namely, the payment to the municipality of such percentage of the proceeds of the said tax as may be determined from time to time by the municipality with the approval of the Commissioner for

(i) making reasonable provision for the performance of all obligations imposed or which may be imposed on it by or under this Act or any other law for the time being in force;

(ii) such general duties of the municipality as are connected with the health, convenience and safety of the said pilgrims; and

(iii) the cost of collection of the said tax.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "other than fines imposed by any court" were inserted, *ibid.*

[3] The word "Crown" was substituted for the words "Secretary of State for India in Council", *ibid.*

[4] *See* Central Acts.

[5] This proviso was added by Bom. 4 of 1930, s. 4 (x).

(*3*) The sums credited under clause (*1*) shall be devoted to such works conducive to the health, convenience and safety of the said pilgrims as may be approved by the Commissioner.

Application of municipal property and funds within and without the municipal borough.

66. The municipal fund and all property vested in a municipality shall be applied for purposes of this Act within the limits of the municipal borough :

Provided always that it shall be lawful for the municipality, with the sanction of [1][the Provincial Government] or any officer duly authorised by it in this behalf,—

(*a*) to incur expenditure in the acquisition of land or in the construction, maintenance or repair of works beyond the said limits for the purpose of obtaining a supply of water required for the inhabitants of the municipal borough, or of establishing slaughter-houses or places for the disposal of night-soil or sewage or carcasses of animals or for drainage works, or for any other purpose calculated to promote the health, safety or convenience of the inhabitants of the said borough ; or

(*b*) to make a contribution towards expenditure incurred by any other local authority or out of any public funds for measures affecting the health, instruction, safety or convenience of the public and calculated to benefit the residents within the limits of the contributing municipality ; or

(*c*) to create scholarships tenable outside the limits of the municipal borough :

Provided, further, that nothing in this section or in any other provision of this Act shall be deemed to make it unlawful for a municipality when with such sanction as aforesaid it has constructed works beyond the limits of the municipal borough for the supply of water or for drainage as aforesaid—

(*a*) to supply or extend to or for the benefit of any person or buildings or lands in any place whether such place is or is not within the limits of the said borough, any quantity of water not required for the purposes of this Act within the said borough, or the advantages afforded by the system of drainage-works, on such terms and conditions with regard to payment and to the continuance of such supply or advantages as shall be settled by agreement between the municipality and such person or the occupier or owner of such buildings or lands, or

(*b*) to incur any expenditure, on such terms with regard to payment as may be settled as aforesaid, for the construction, maintenance, repair or alteration of any connection pipes or other works necessary for the purpose of such supply or for the extension of such advantages.

Power to deposit and invest surplus funds.

67. (*1*) It shall be lawful for a municipality to deposit [2]* * with the Imperial Bank of India or such other bank as may hereafter be appointed to conduct the business of His Majesty's treasury at Bombay or with the sanction of [1][the Provincial Government] in any bank in the Presidency of Bombay any surplus funds in its hands which may not be required for current charges, and to invest such funds in public securities in the name of the municipality, and from time to time to dispose of such securities as may be necessary.

Surplus not so deposited or invested how to be dealt with.

(*2*) All surplus funds over and above what may be required for current expenses, unless deposited or invested as provided for in sub-section (*1*), shall be deposited in the local Government treasury or such other place of security as may be sanctioned in the rules of the municipality.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "at interest" were deleted by Bom. 23 of 1931, s. 4 (*i*).

CHAPTER VI.

OBLIGATORY AND DISCRETIONAL FUNCTIONS OF MUNICIPALITIES.

68. It shall be the duty of every municipality to make reasonable and adequate provision— Duties of municipalities.

(*I*) for the following matters within the municipal borough under its authority, namely :—

(*a*) lighting public streets, places and buildings ;

(*b*) watering public streets and places ;

(*c*) cleansing public streets, places and sewers, and all spaces, not being private property, which are open to the enjoyment of the public, whether such places are vested in the municipality or not ; removing noxious vegetation ; and abating all public nuisances ;

(*d*) extinguishing fires, and protecting life and property when fires occur ;

(*e*) regulating or abating offensive or dangerous trades or practices ;

(*f*) removing obstructions and projections in public streets or places and in spaces, not being private property, which are open to the enjoyment of the public, whether such spaces are vested in the municipality or in His Majesty ;

(*g*) securing or removing dangerous buildings or places, and reclaiming unhealthy localities ;

(*h*) acquiring and maintaining, changing and regulating places for the disposal of the dead ;

(*i*) constructing, altering and maintaining public streets, culverts, municipal boundary marks, markets, slaughter-houses, latrines, privies, urinals, drains, sewers, drainage-works, sewerage works, baths, washing places, drinking fountains, tanks, wells, dams and the like ;

(*j*) obtaining a supply or an additional supply of water, proper and sufficient for preventing danger to the health of the inhabitants from the insufficiency or unwholesomeness of the existing supply, when such supply or additional supply can be obtained at a reasonable cost ;

(*k*) naming streets and numbering houses ;

(*l*) registering births, marriages and deaths ;

(*m*) public vaccination ;

(*n*) suitable accommodation for any calves, cows, or buffaloes required within the municipal borough for the supply of animal lymph ;

(*o*) establishing and maintaining public hospitals and dispensaries, and providing public medical relief ;

(*p*) establishing and maintaining primary schools ;

(*q*) printing such annual reports on the municipal administration of the borough as [1][the Provincial Government] by general or special orders requires the municipality to submit ;

(*r*) paying the salary and the contingent expenditure on account of such police or guards as may be required by the municipality for the purposes of this Act or for the protection of any municipal property ;

(*s*) erecting substantial boundary marks of such description and in such position as shall be approved by the Collector, defining the limits or any alteration in the limits of the municipal borough ; and

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(2) subject to such reasonable and adequate provision as aforesaid, for the following special matters, namely :—

(a) providing special medical aid and accommodation for the sick in time of dangerous disease ; and taking such measures as may be required to prevent the outbreak or to suppress and prevent the recurrence of the disease ;

(b) giving relief and establishing and maintaining relief works in time of famine or scarcity to or for destitute persons within the limits of the municipal borough.

Provision for anti-rabic treatment of indigent persons.

69. Every municipality shall, out of the municipal property and fund, make payments, at such rates and subject to such conditions as [1][the Provincial Goverment] from time to time by general or special order prescribes, for the maintenance and treatment in any institution which [1][the Provincial Government] declares by notification to be suitable for such purpose either within or without the municipal borough, and for other necessary expenses, of persons undergoing anti-rabic treatment as indigent persons according to the rules applicable to such institution and proceeding from the municipal borough :

Provided that the municipality shall not be liable under this section for the maintenance, treatment and other necessary expenses of any person undergoing anti-rabic treatment as an indigent person in any such institution as aforesaid, unless such person, previous to his admission thereto, has been resident in the municipal borough for at least one year.

Provision for lunatics and lepers.

70. Every municipality shall also, out of the municipal property and fund, make payments at such rates as [1][the Provincial Government] from time to time by general or special order prescribes, for the maintenance and treatment either in the municipal borough or at any asylum, hospital or house, whether within or without such borough, which [1][the Provincial Government] declares by notification to be suitable for such purpose,—

(a) of lunatics, not being persons for whose confinement an order under Chapter XXXIV of the Code of Criminal Procedure, 1898, is in force, and V of 1898

(b) of lepers,

resident within, or under any enactment for the time being in force removed from, such borough :

Provided that the municipality shall not be liable under this section for the maintenance and treatment of any lunatic or leper in any such asylum, hospital or house as aforesaid, unless such lunatic or leper, immediately previous to his admission thereto, has been resident in the municipal borough for at least one year :

Provided further that [2][where an application is made to the High Court or a District Court under the provisions of section 88 of the Indian Lunacy Act, 1912, IV o 1912 no order for the payment of the cost of maintenance of the lunatic by a municipality shall be made without an opportunity being given to such municipality to show that the lunatic has an estate applicable to his maintenance or that there is a person legally bound, and having the means, to maintain him]. The officer in charge of any asylum to which lunatics for whose maintenance and treatment a municipality is liable under this section are admitted shall maintain a clear account of the cost of maintenance and treatment incurred on account of each lunatic detained in the asylum and shall furnish a copy thereof to the municipality on application.

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[1] The words " the Provincial Government " were substituted for the words " the Government " by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words beginning with the words " before making any order " and ending with the words " the Local Government " by Bom. 15 of 1936, s. 4.

71. A municipality may, at its discretion, provide, either wholly or partly, out of the municipal property and fund for— Discretionary powers of expenditure of municipalities.

(*a*) laying out, whether in areas previously built upon or not, new public streets, and acquiring the land for that purpose, and the land required for the construction of buildings or curtilages thereof, to abut on such streets ;

(*b*) constructing, establishing, or maintaining public parks, gardens, libraries, museums, lunatic asylums, halls, offices, dharamsalas, rest-houses and other public buildinigs ;

(*c*) furthering educational objects other than those set forth in clause (*p*) of sub-section (*1*) of section 68 ;

(*d*) planting and maintaining road-side and other trees ;

(*e*) providing music for the people ;

(*f*) taking a census, and granting rewards for information which may tend to secure the correct registration of vital statistics ;

(*g*) making a survey ;

Bom. IV of 1896. Bom. IV of 1902.

(*h*) paying the salaries and allowances, rent and other charges incidental to the maintenace of the Court of any stipendiary or honorary Magistrate, or any portion of any such charges ;

(*i*) arranging for the destruction or the detention and preservation of dogs which may be destroyed or detained under section 157 of this Act or under section 49 of the Bombay District Police Act, 1890, [1][or as the case may be, section 29 of the City of Bombay Police Act, 1902] ;

(*j*) securing or assisting to secure suitable places for the carrying on of the offensive trades specified in sub-section (*1*) of section 186 ;

(*k*) supplying, constructing and maintaining, in accordance with a general system approved by the sanitary board, receptacles, fittings, pipes and other appliances whatsoever, on or for the use of private premises, for receiving and conducting the sewage thereof into sewers under the control of the municipality ;

(*l*) the acquisition and maintenance of grazing grounds ; and the establishment and maintenance of dairy farms and breeding stud ;

(*m*) establishing and maintaining a farm or factory for the disposal of sewage ;

(*n*) the construction, maintenance, management, organisation or purchase of telephone lines, or for guaranteeing the payment of interest on money expended for the construction of a telephone line subject to the previous sanction of the Commissioner when the line extends beyond the limits of the municipal borough ;

(*o*) providing accommodation for any class of servants employed by the municipality ;

(*p*) the construction of sanitary dwellings for the poorer classes ;

[2][(*q*) the construction, purchase, organisation, maintenance, extension and management of light railways, tramways and mechanically propelled transport facilities for the conveyance of the public ;]

(*r*) any other measure not specified in section 68 likely to promote the public safety, health, convenience or education ; and

(*s*) by a resolution passed at a general meeting and supported by two-thirds of the whole number of councillors any public reception, ceremony, entertainment or exhibition within the municipal borough.

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[1] This portion was added by Bom. 22 of 1945, s. 3, read with Bom. I of 1947, s. 3.
[2] This clause was substituted for the original by Bom. 2 of 1947, s. 3.

Arrangements purporting to be binding permanently or for a term of years.

72. Where a municipality has entered into any arrangement or made any promise, purporting to bind it or its successors for a term of years or for an unlimited period, to continue to any educational or charitable institution a yearly contribution from the municipal property or fund, it shall be lawful for the municipality or its successors with the sanction of [1][the Provincial Government] to cancel such arrangement or promise, or to discontinue, or to diminish such yearly contribution provided that it shall have given at least twelve months' notice of its intention so to do to the manager or managers of such institution.

CHAPTER VII.

MUNICIPAL TAXATION.

(1) *Imposition of Taxes.*

Taxes which may be imposed.

73. Subject to any general or special orders which [1][the Provincial Government] may make in this behalf and to the provisions of sections 75 and 76, a municipality may impose for the purposes of this Act any of the following taxes, namely :—

(*i*) a rate on buildings or lands or both situated within the municipal borough ;

(*ii*) a tax on all vehicles, boats or animals used for riding, draught or burden and kept for use within the said borough, whether they are actually kept within or outside the said borough :

[2][Provided that where a motor vehicle is kept for use within the said borough as well as another municipal borough or municipal district, it shall be liable to be taxed only by the municipality within, or nearest to, whose limits such vehicle is actually kept.]

(*iii*) a toll on vehicles [3][(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)] and animals used as aforesaid, entering the said borough but not liable to taxation under clause (*ii*) of this section ; Bom. XXXI of 1935

(*iv*) an octroi on animals or goods or both, brought within the octroi limits for consumption or use therein ;

(*v*) a terminal tax on goods imported into or exported from the terminal tax limits :

Provided that, save as provided in clause (*xiv*) no such tax shall be leviable in a borough in which an octroi was not levied on or before the 6th July 1917 ;

(*vi*) a tax on dogs kept within the said borough ;

(*vii*) a special sanitary cess upon private latrines, premises or compounds cleansed by municipal agency, after notice given as hereinafter required ;

(*viii*) a general sanitary cess for the construction and maintenance of public latrines, and for the removal and disposal of refuse ;

(*ix*) a drainage tax ;

(*x*) a general water-rate or a special water-rate or both for water supplied by the municipality, which may be imposed in the form of a rate assessed on buildings and lands or in any other form, including that of charges for such supply, fixed in such mode or modes as shall be best adapted to the varying circumstances of any class of [4][cases] or of any individual case ;

(*xi*) a lighting tax ;

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This proviso was inserted by Bom. 7 of 1946, s. 3, read with Bom. 1 of 1947, s. 4.

[3] These words, figures and brackets were inserted by Bom. 34 of 1935, s. 22, Sch. II.

[4] The word "cases" was substituted for the word "case" by Bom. 24 of 1926, s. 2, Sch.

(*xii*) a tax on pilgrims resorting periodically to a shrine within the limits of the municipal borough;

(*xiii*) a special educational tax;

Bom. XXXIV of 1935.

[1][(*xiv*) any other tax (not being a toll on motor vehicles and trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which under the Government of India Act, 1935, the Provincial Legislature has power to impose in the Province.]

[2](*xv*) * * * * * * *

Provided that—

(*a*) no tax imposed as aforesaid, other than a special sanitary cess, a drainage tax or a water-rate, shall, without the express consent of the [3][Crown], be leviable in respect of any building or part of any building or of any vehicle, animal or other property, belonging to His Majesty and used solely for public purposes and not used or intended to be used for purposes of profit; and no toll shall be leviable in respect of any animal or vehicle used for the passage of troops or the conveyance of [3][Crown] stores or of any other [3][Crown] property, or for the passage of military or police-officers on duty or the passage or conveyance of any person or property in their custody;

(*b*) no special sanitary cess shall be leviable in respect of any private latrines, premises or compounds, unless and until the municipality has—

(*i*) made provision for the cleansing thereof by manual labour, or for conducting or receiving the sewage thereof into municipal sewers, and

(*ii*) issued either severally to the person to be charged, or generally to the inhabitants of the borough or part of the borough to be charged with such cess, one month's notice of the intention of the municipality to perform such cleansing and to levy such cess;

(*c*) the municipality in lieu of imposing separately any two or more of the taxes described in clauses (*i*), (*viii*), (*x*) and (*xi*), may impose a consolidated tax assessed as a rate on buildings or lands or both situated within the municipal borough.

[4][(*2*) Nothing in this section shall authorize the imposition of any tax which the Provincial Legislature has no power to impose in the Province under the Government of India Act, 1935:

Provided that a municipality, which immediately before the commencement of Part III of the said Act was lawfully levying any such tax under this section as then in force, may continue to levy that tax until provision to the contrary is made by the Central Legislature.]

Payment to be made to the municipality in lieu of a rate on buildings by the Government concerned.

74. (*1*) The [5][Government concerned [6]* * * *] shall pay to the municipality annually in lieu of a rate on buildings from which buildings vesting in His Majesty are exempted by proviso (*a*) to section 73, a sum ascertained in the manner provided in sub-sections (*2*) and (*3*).

(*2*) The rateable value of the buildings vesting in His Majesty and beneficially occupied, in respect of which but for the said exemption a rate on such buildings would be leviable from the [5][Government concerned [7]* * * *]

[1] This clause was substituted for the original clause by the Adaptation of Indian Laws Order in Council.

[2] Clauses (*xv*) was omitted, *ibid.*

[3] The word "Crown" was substituted for the word "Government", *ibid.*

[4] Sub-section (*2*) was inserted, *ibid.*

[5] These words were substituted for the word "Government", *ibid.*

[6] The words "or the Crown Representative, as the case may be," were omitted in pursuance of para. 7 of the India (Adaptation of Existing Indian Laws) Order, 1947.

[7] The words "or the Crown Representative" were omitted, *ibid.*

shall be fixed by a person from time to time appointed in this behalf by [1][the Provincial Government]. The said value shall be fixed by the said person, with a general regard to the provisions hereinafter contained concerning the valuation of property assessable to property-taxes, at such amount as he shall deem to be fair and reasonable. The decision of the person so appointed shall hold good for a term of five years, subject only to proportionate variation, if in the meantime the number and extent of the buildings vesting in His Majesty in the said borough materially increases or decreases.

(*3*) The sum to be paid annually to the municipality by the [2][Government concerned [3]* * * *] shall be eight-tenths of the amount which would be payable by an ordinary owner of buildings in the said borough on account of the said rate on buildings on a rateable value of the same amount as that fixed under sub-section (*2*).

Procedure preliminary to imposing tax.

75. A municipality before imposing a tax shall observe the following preliminary procedure :—

(*a*) it shall, by resolution passed at a general meeting, select for the purpose one or other of the taxes specified in section 73 and approve rules prepared for the purposes of clause (*j*) of section 58, prescribing the tax selected, and in such resolution and in such rules specify—

(*i*) the classes of persons or of property or of both, which the municipality proposes to make liable, and any exemptions which it proposes to make ;

(*ii*) the amount or rate at which the municipality proposes to assess each such class ;

(*iii*) in the case of a rate on buildings or lands or both, the basis, for each class, of the valuation on which such rate is to be imposed ;

(*iv*) all other matters which [1][the Provincial Government] may require to be specified therein.

(*b*) When such resolution has been passed, the municipality shall publish the rules so approved with a notice in the form of Schedule II prefixed thereto.

(*c*) Any inhabitant of the municipal borough objecting to the imposition of the said tax or to the amount or rate proposed or to the classes of persons or property to be made liable thereto or to any exemptions proposed may, within one month from the publication of the said notice, send his objection in writing to the municipality ; the municipality shall take all such objections, into consideration, or shall authorize a committee to consider the same and report thereon ; and unless it decides to abandon the proposed tax, shall submit such objections with its opinion thereon and any modifications proposed in accordance therewith, together with the notice and rules aforesaid to [1][the Provincial Government].

Explanation.—In the case of lands the basis of valuation may be either capital or annual letting-value.

Power to sanction, modify and impose conditions.

76. [4][The Provincial Government] may refuse to sanction the rules submitted under section 75, or may return them to the municipality for further consideration ; or if no objection or no objection which is in its opinion sufficient, was made to the proposed tax within the period prescribed under section 75, may sanction the said rules without modification, or subject to such modifications not involving an increase

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Government concerned or the Crown representative" were substituted for the word "Government", *ibid.*

[3] The words "or the Crown Representative" were omitted in pursuance of para. 7 of the Indian (Adaptation of Existing Indian Laws) Order, 1947.

in the amount to be imposed, or to such conditions as to the application within the municipal borough to any purpose or purposes of this Act specified in such conditions of the whole or any part of the proceeds of the tax, as it deems fit.

77. Rules sanctioned under section 76 with the modifications and conditions, if any, subject to which the sanction is given shall be published by the municipality in the municipal borough, together with a notice reciting the sanction and the date and serial number thereof; and the tax as prescribed by the rules so published shall, from a date which shall be specified in such notice and which shall not be less than one month from the date of publication of such notice, be imposed accordingly, and the proceeds thereof shall be applied by the municipality in accordance with all conditions, if any, subject to which sanction under section 76 was given: **Publication of sanctioned rules with notice.**

Provided that—

(*a*) a tax leviable by the year shall not come into force except on one of the following days, namely, the first day of April, the first day of July, the first day of October or the first day of January in any year; and if it comes into force on any day other than the first day of April, it shall be leviable by the quarter till the first day of April then next ensuing;

(*b*) on or before the day on which a notice is issued under this section, the municipality shall publish such further detailed rules as may be required, and as may have been approved by [1][the Provincial Government] under clause (*a*) of the proviso to section 58, prescribing the mode of levying, and recovering the tax therein specified and the dates on which it or the instalments, if any, thereof shall be payable;

(*c*) if the levy of a tax, or of a special portion of a tax, has been sanctioned for a fixed period only, the levy shall cease at the conclusion of that period, except so far as regards unpaid arrears which may have become due during that period.

[2][**77A.** (*1*) [1][The Provincial Government] may, by notification in the [3][*Official Gazette*], empower any municipality to levy any tax imposed by such municipality under section 73 within such maximum and minimum limits either as to the amount or the rate as may be specified in such notification. **Municipalities empowered by Provincial Government to levy taxes at varying amount or rate.**

(*2*) Notwithstanding any resolution or rule under section 75 specifying the amount or rate at which such tax is leviable, any municipality empowered under sub-section (*1*) may, by a resolution passed at a general meeting, decide to increase or reduce the amount or rate at which such tax is leviable:

Provided that—

(*a*) such increase or reduction shall be within the maximum and minimum limits fixed in respect of such tax under sub-section (*1*), and

(*b*) such increase or reduction shall not exceed ten per centum of the amount or rate at which such tax was leviable during the preceding official year.

(*3*) When a municipality has by a resolution passed under sub-section (*2*) decided to increase or reduce the amount or rate at which any tax is leviable; the municipality shall publish in the municipal borough the resolution together with notice specifying a date, which shall not be less than one month from the date of publication of such notice, from which the amount or rate at which any tax is leviable shall be increased or reduced. The tax at the amount or rate so increased or reduced shall be leviable from the date specified in such notice.]

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] S. 77A was inserted by Bom. 19 of 1935, s. 8.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(2) Assessment of and liability to rates on buildings or lands.

Preparation of an assessment-list.

78. (*1*) When a rate on building or lands or both is imposed, the Chief Officer shall cause an assessment-list of all buildings or lands or lands and buildings in the municipal borough to be prepared containing—

(*a*) the name of the street or division in which the property is situate ;

(*b*) a description of the property sufficient for identification ;

(*c*) the names of the owner and occupier, if known ;

(*d*) the valuation based on capital or annual letting value, as the case may be, on which the property is assessed ; and

(*e*) the amount of the tax assessed thereon.

(*2*) In assessing a tax on buildings or lands, where the valuation determined under clause (*d*) of sub-section (*1*) of this section is the annual letting value, a sum equal to ten per centum of the said valuation shall be deducted therefrom in lieu of all allowance for repairs or on any other account whatsoever.

Power to inspect and require returns.

(*3*) For the purpose of preparing such assessment-list the Chief Officer or any person acting under his authority may inspect any building or land in the municipal borough and on the requisition of the Chief Officer the owner or occupier of any such building or land shall, within such reasonable period as shall be specified in the requisition, be bound to furnish a true return to the best of his knowledge or belief and subscribed with his signature of the name and place of abode of the owner or occupier or of both and the annual letting value and his estimate of the value of such building or land.

Person primarily liable for a rate on buildings or lands or both how to be designated if his name cannot be ascertained.

79. (*1*) When the name of the person primarily liable for the payment of a rate on buildings or lands or both in respect of any premises cannot be ascertained, it shall be sufficient to designate him in the assessment book, and in any notice which it may be necessary to serve upon the said person under this Act, "the holder" of such premises, without further description.

Occupier liable for a rate on buildings or lands or both until he gives information.

(*2*) If, in any such case, any person in occupation of the premises shall refuse to give such information as may be requisite for determining who is primarily liable as aforesaid, such person shall himself be liable, until such information is obtained, for all rates on buildings or lands or both leviable on the premises of which he is in occupation.

Publication of notice of assessment-list.

80. When the assessment-list has been completed, the Chief Officer shall give public notice thereof and of the place where the list or a copy thereof may be inspected ; and every person claiming to be either the owner or occupier of property included in the list, and any agent of such person, shall be at liberty to inspect the list and to make extracts therefrom without charge.

Public notice of time fixed for lodging objections.

81. (*1*) The Chief Officer shall, at the time of the publication of the assessment-list under section 80, give public notice of a date, not less than one month after such publication, before which objections to the valuation or assessment in such list shall be made ; and in all cases in which any property is for the first time assessed or the assessment is increased, he shall also give notice thereof to the owner or occupier of the property, if known, and if the owner or occupier of the property is not known, he shall affix the notice in a conspicuous position on the property.

Objections how to be made.

(*2*) Objections to the valuation and assessment of any property in such list shall, if the owner or occupier of such property desires to make an objection, be made by such owner or occupier or any agent of such owner or occupier to the standing committee before the time fixed in the aforesaid public notice, by application in

writing, stating the grounds on which the valuation or assessment is disputed ; all applications so made shall be registered in a book to be kept by the standing committee for the purpose.

Hearing of objections.

(*3*) The standing committee, after allowing the applicant an opportunity of being heard in person or by agent, shall—

(*a*) investigate and dispose of the objections,

(*b*) cause the result thereof to be noted in the book kept under sub-section (*2*), and

(*c*) cause any amendment necessary in accordance with such result to be made in the assessment list :

Provided that powers and duties of the standing committee under this sub-section may be transferred to any other committee appointed by the municipality or with the permission of the Commissioner, to any officer or pensioner of [1][the Crown].

Authentication of list.

(*4*) When all objections made under this section have been disposed of and all amendments required by sub-section (*3*) have been made in the assessment-list, the said list shall be authenticated by the signatures of the chairman and at least one other member of the standing committee, or if the standing committee's powers and functions under sub-section (*3*) have been transferred to any other committee or to an officer or pensioner of [2][the Crown], by the signatures of not less than two members of such committee or of the officer or pensioner aforesaid ; the person or persons so authenticating the list shall certify that no valid objection has been made to the valuation and assessment contained in the list except in the cases in which amendments have been made therein.

Custody and inspection of list.

(*5*) The list so authenticated shall be deposited in the municipal office, and shall there be open for inspection during office hours to all owners and occupiers of property entered therein or to the agents of such persons, and a notice that it is so open shall be forthwith published.

Authenticated list how far conclusive.

(*6*) Subject to such alterations as may be made therein under the provisions of section 82 and to the result of any appeal or revision made under section 110, the entries in the assessment-list so authenticated and deposited and the entries, if any, inserted in the said list under the provisions of section 82 shall be accepted as conclusive evidence—

(*i*) for the purposes of all municipal taxes, of the valuation, or annual letting value on the basis prescribed in the rules regulating the rate, of buildings, lands and both the buildings and lands to which such entries respectively refer, and

(*ii*) for the purposes of the rate for which such assessment-list has been prepared, of the amount of the rate leviable on such buildings or lands or both buildings and lands in any official year in which such list is in force.

Amendment of assessment-list. Notice of new buildings.

82. (*1*) The standing committee may at any time alter the assessment-list by inserting or altering an entry in respect of any property, such entry having been omitted from or erroneously made in the assessment-list through fraud, accident or mistake or in respect of any building constructed, altered, added to or reconstructed in whole or in part, where such construction, alteration, addition or reconstruction has been completed after the preparation of the assessment-list, after giving notice to any person interested in the alteration of the list of a date, not less than one month from the date of service of such notice, before which any objection to the alteration should be made.

[1] The words " the Crown " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] The words " the Crown " were substituted for the words " the Government ". *ibid.*

Objections how dealt with.

(2) An objection made by any person interested in any such alteration, before the time fixed in such notice, and in the manner provided by sub-section (2) of section 81, shall be dealt with in all respects as if it were an application under the said section.

Effect of amendment.

(3) An entry or alteration made under this section shall subject to the provisions of section 110, have the same effect as if it had been made in the case of a building constructed, altered, added to or reconstructed on the day on which such construction, alteration, addition or reconstruction was completed or on the day on which the new construction, alteration, addition or reconstruction was first occupied, whichever first occurs, or in other cases, on the earliest day in the current official year on which the circumstances justifying the entry or alteration existed ; and the tax or the enhanced tax as the case may be shall be levied in such year in the proportion which the remainder of the year after such day bears to the whole year.

Notice to be given to the standing committee of demolition or removal of a building.

83. (1) When any building or any portion of a building which is liable to the payment of a rate or buildings or lands or both is demolished or removed, otherwise than by order of the standing committee, the person primarily liable for the payment of the said rate shall give notice thereof, in writing, to the Chief Officer.

(2) Until such notice is given the person aforesaid shall continue liable to pay every such rate as he would have been liable to pay in respect of such building, if the same, or any portion thereof, had not been demolished or removed.

(3) Provided that nothing in this section shall apply in respect of a building or portion of a building which has fallen down or been burnt down.

New assessment-list need not be prepared every year.

84. (1) It shall not be necessary to prepare a new assessment-list every year. Subject to the condition that every part of the assessment-list shall be completely revised not less than once in every four years, the Chief Officer may adopt the valuation and assessment contained in the list for any year, with such alterations as may be deemed necessary, for the year immediately following.

(2) But the provisions of sections 80, 81 and 82 shall be applicable every year as if a new assessment list had been completed at the commencement of the official year.

Tax from whom primarily leviable.

85. A tax imposed in the form of a rate on buildings or land or both shall be leviable primarily from the actual occupier of the property upon which the tax is assessed if he is the owner of the property, or holds it on a building or other lease from the [1][Crown] or from the municipality, or on a building lease from any person. Otherwise the tax shall be primarily leviable as follows, namely :—

(a) if the property is let from the lessor ;

(b) if the property is sublet, from the superior lessor ;

(c) if the property is unlet, from the person in whom the right to let the same vests :

Recovery from occupiers.

Provided that where the tax is based on the annual letting value, on failure to recover any sum due on account of such tax from the person primarily liable, such portion of the sum may be recovered from the occupier of any part of the property in respect of which it is due, as bears to the whole amount due the same ratio, which the rent annually payable by such occupier bears to the aggregate amount of rent so payable in respect of the whole of the said property, or to the aggregate amount of the letting value thereof, if any, stated in the authenticated assessment-list, whichever of those two amounts is the greater :

[1] The word "Crown" was substituted for the words "Secretary of State for India in Council" by the Adaptation of Indian Laws Order in Council.

Provided, further, that for any sum paid by or recovered from any occupier who is not primarily liable under this section, he shall be entitled to credit in account with the person primarily liable for the payment of that sum. Remedy of occupier in such case.

86. (*1*) Where any building or land which is assessed to a rate based on the annual letting value and payable by the year, or in respect of which a special sanitary cess is payable by the year or by instalments, has remained vacant and unproductive of rent throughout the year or portion of the year for which the rate is leviable, or throughout the period in respect of which any such instalment is payable, the standing committee shall remit or refund not less than two-thirds of the amount of the rate, or of the cess or instalment of the cess, as the case may be: Remission of tax in case of vacancies: when obligatory.

Provided that no such remission or refund shall be granted unless notice in writing of the fact of the building or land being vacant and unproductive of rent has been given to the Chief Officer, and that no remission or refund shall take effect for any period previous to the day of the delivery of such notice.

(*2*) Where any such building or land as aforesaid— When discretional.

(*a*) has been vacant and unproductive of rent for any period of not less than sixty consecutive days, or

(*b*) consists of separate tenements one or more of which has or have been vacant and unproductive of rent for any such period as aforesaid, or

(*c*) is wholly or in great part demolished or destroyed by fire or otherwise deprived of value, the standing committee may remit or refund such portion, if any, of the rate, cess or instalment as it may think equitable.

(*3*) The burden of proving the facts entitling any person to claim relief under this section shall be upon him. Burden of proof on claimant.

(*4*) For the purposes of this section [1][(*a*) a dwelling-house within the limits of a municipal borough notified by [2][the Provincial Government] as a hill station municipal borough shall be deemed to be vacant notwithstanding the fact that it contains the furniture habitually used in it, if otherwise unoccupied; and (*b*)] a building or land shall be deemed to be productive of rent if let to a tenant who has a continuing right of occupation thereof, whether it is actually occupied by such tenants or not. Explanatory clause.

87. (*1*) Whenever the title of any person primarily liable for the payment of a rate on buildings or lands or both to or over such land or buildings or both is transferred, [3][the person whose title is so transferred and] the person to whom the same is transferred shall, within three months after execution of the instrument of transfer, or after its registration if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer in writing to the Chief Officer. Notice to be given to the Chief Officer of all transfers of title of persons primarily liable to payment of a rate on buildings or lands.

(*2*) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise, shall give notice of such transfer to the Chief Officer within one year from the death of the deceased.

(*3*) If the person liable to give the notice referred to in sub section (*1*) or sub-section (*2*) fails to give such notice he shall be punished with fine which may extend to fifty rupees.

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[1] These words were inserted by Bom. 12 of 1931, s. 3 (*ii*).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were inserted by Bom. 24 of 1936, s. 2, Schedule.

Form of notice.

88. (*1*) The notice to be given under the last preceding section shall be in the form of Schedule III or Schedule IV, as the case may be, and shall state clearly and correctly all the particulars required by the said form.

(*2*) On receipt of any such notice, the Chief Officer may, if he thinks it necessary, require the production of the instrument of transfer, if any, or a copy thereof, obtained under section 57 of the [1]Indian Registration Act, 1908. XVI of 1908.

Liability for payment of a rate on buildings or lands or both to continue in the absence of any notice of transfer.

89. (*1*) Every person primarily liable for the payment of a rate on buildings or lands or both who transfers his title to or over such building or land or both without giving notice of such transfer to the Chief Officer as aforesaid, shall, in addition to any other liability which he incurs through such neglect, continue liable for the payment of the said rate on the buildings or lands or both until he gives such notice, or until the transfer shall have been recorded by the standing committee.

(*2*) But nothing in this section shall be held to diminish the liability of the transferee for the said rate or to affect the prior claim of the municipality on the said buildings and lands conferred by section 112, for the recovery of the rate on the lands or buildings or both.

(*3*) *Power to charge fees.*

Fees may be charged for certain licences.

90. (*1*) When any licence is granted under this Act, or when permission is given thereunder for making any temporary erection or for putting up any projection, or for the temporary occupation of any public street or other land vested in the municipality, the authority granting or giving such license or permission may charge a fee for the same.

Levy of fees for unauthorized occupation or projection.

(*2*) The municipality may charge a higher fee by way of penalty for any erection, or projection, or for the use or occupation of any public street or other land vested in the municipality, by any person without its permission or licence. Such fee shall be leviable irrespective of any other penalty or other penalty or liability to which the person liable to pay the same may be subject under any other provision of this Act or any other law for the time being in force.

The rates of such higher fees shall be determined by rules.

Market and other fees.

(*3*) A Chief Officer may also charge such fees as may be fixed by by-laws under clause (*a*) of sub-section (*1*) of section 61, for the use of any such places mentioned in that clause as belong to the municipality and as may be fixed by by-laws under clause (*h*) of sub-section (*1*) of section 61 for stamping weights and measures.

(*4*) *Special provisions relating to certain taxes.*

Fixed charges and agreements for payment in lieu of taxes for water supplied.

91. (*1*) A municipality may, instead of imposing a water-rate or where a water-rate has been imposed, in individual cases, instead of levying a rate imposed in respect of the supply of water belonging to the municipality to or for use in connection with any private lands or buildings,—

(*a*) fix at rates not exceeding such as shall be specified in the rules in force under section 58, charges for such supply according to the quantity used, as ascertained by measurement; or

(*b*) arrange with any person on his application to supply on payment, periodical or otherwise, water belonging to the municipality, in such quantities or for such purposes, whether domestic, ornamental, or irrigational or for trade,

[1] Central Acts.

manufacture or any other purpose, on such terms and subject to such conditions as it shall fix by agreement with such person:

Provided that—

(*a*) the meters, connection-pipes and all other works necessary for and incidental to such supply, and all repairs, extensions an alterations of such works shall be under the control of the municipality and the expense thereof shall, so far as is not inconsistent with the rules or by-laws of the municipality, be defrayed by the persons liable for the charges or payments fixed in respect of such supply; and

(*b*) such supply of water shall be and shall be deemed to have been granted, subject to all such conditions as to the limit or stoppage thereof and as to the prevention of waste or misuse, as are prescribed in the by-laws for the time being in force under section 61.

Power to fix a special rate in lieu of special sanitary cess.

(*2*) Where a municipality has made provision for the cleansing of any factory, hotel or club or any group of buildings or lands used for any one purpose and under one management, it may, instead of levying in respect thereof any special sanitary cess imposed under this Chapter, fix a special rate and the dates and other conditions for periodical payments thereof; such rate, dates and conditions shall be determined either,

(*i*) in accordance with the rules for the time being in force under section 58, or

(*ii*) by written agreement with the person who would have been otherwise liable for the cess: provided that in fixing the amount of such rate proper regard shall be had to the probable cost to the municipality of the service to be rendered.

Power to compound tax on vehicles or animals.

(*3*) Where a municipality has imposed a tax on vehicles or animals used for riding, draught or burden and kept for such use within the municipal borough it may compound with the keeper of any livery-stable or of horses or vehicles kept for sale and hire for the payment of a lump sum for any period not exceeding one year at a time, in lieu of any amount which such keeper would otherwise have been liable to pay on account of the tax imposed as aforesaid.

Recovery of sums claimed under this section.

(*4*) Every sum claimed by a municipality as due under sub-section (*1*) as charges, payments or expenses, or as a special rate under sub-section (*2*) or as a lump sum payable under sub-section (*3*), shall for the purposes of Chapter VIII be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of a tax recoverable under the said Chapter:

Provided that nothing in this section shall affect the right or power of a municipality to contract with any person to supply for use beyond the limits of the municipal borough, at such rates and on such conditions as the municipality may think fit, any quantity of water belonging to the municipality but not required for the purposes of this Act.

Taxes on pilgrims may be assigned in part to local boards.

92. Where a tax is imposed under this Act on pilgrims resorting periodically to a shrine within the limits of a municipal borough, the Commissioner may require the municipality of such borough to assign and pay to the district local board or to the taluka local board having authority in the taluka in which such municipal borough is situate, or partly to the said district local board and partly to the said taluka local board, such portion of the total collections on account of such tax as he shall deem fit; and the portion so assigned shall be expended by the said board or boards, within the areas respectively under their authority, on works conducive to the health, convenience and safety of the said pilgrims.

(*5*) *Octroi and Tolls.*

Octroi by-laws to be submitted with proposal for imposition

93. A municipality, when submitting for sanction a proposal for the imposition of octroi, shall submit therewith for sanction a draft of by-laws for the purposes of clause (*n*) of sub-section (*1*) of section 61, after observing the requirements of sub-sections (*2*) and (*3*) of that section

Power to examine articles liable to octroi.

94. (*1*) A person bringing into or receiving from beyond the octroi limits of a municipal borough any animal or goods on which octroi is payable shall, when required by an officer authorized in this behalf by the Chief Officer and so far as may be necessary for ascertaining the amount of tax chargeable,—

(*a*) permit that officer to inspect, examine, weigh, and otherwise deal with such animal or goods; and

(*b*) communicate to that officer any information and exhibit to him any bill, invoice or document of a like nature, which he may possess relating to such animal or goods;

(*c*) make a declaration in writing to that officer regarding the correctness and accuracy of the document shown to him.

Power to search where octroi is leviable.

(*2*) If any person bringing into or receiving from beyond the octroi limits of a municipal borough in which octroi is leviable, any conveyance or package, shall refuse on the demand of an officer authorized by the Chief Officer in this behalf, to permit the officer to inspect the contents of the conveyance or package for the purpose of ascertaining whether it contains anything in respect of which octroi is payable, the officer may cause the conveyance or package to be taken without unnecessary delay before a Magistate or such officer of the municipality as [1][the Provincial Government] appoints in this behalf by name or office, who shall cause the inspection to be made in his presence.

Presentation of bills for octroi.

95. An officer demanding octroi by the authority of the municipality shall tender to every person introducing or receiving anything on which the tax is claimed, a bill specifying the animal or goods taxable, the amount claimed, and the rate at which the tax is calculated.

Penalty for evasion of octroi.

96. Where any animal or goods passing into a municipal borough are liable to the payment of octroi, any person who, with the intention of defrauding the municipality, causes or abets the introduction of or himself introduces or attempts to introduce within the octroi limits of the said borough any such animal or goods upon which payment of the octroi due on such introduction has neither been made nor tendered, shall be punishable with fine which may extend to ten times the amount of such octroi or to fifty rupees, whichever may be greater.

Tables of tolls to be shown on demand.

97. A municipality imposing any toll under this Act shall cause to be kept at each place where such toll is to be collected, a table in the vernacular language of the district, showing the amounts leviable in all cases provided for in the rules including the terms, if any, on which the liability to pay such tolls may be compounded by periodical payments; and it shall be the duty of every person authorized to demand payment of a toll, to show such table on the request of any person from whom such demand is made.

Power to seize vehicle or animal or goods on non-payment of octroi or toll.

98. (*1*) In the case of non-payment on demand of any octroi or of any toll leviable by a municipality, any person appointed to collect such octroi or toll may seize any animal or goods on which octroi is chargeable, or any vehicle or animal on which the toll is chargeable or any part of the burden of such vehicle or animal which is of sufficient value to satisfy the demand, and may detain the same. He shall thereupon give the person in possession of the vehicle, animal or thing seized, a list of the property together with a written notice in the form of Schedule VII.

Power to sell property seized at once.

(*2*) When any property seized is subject to speedy decay, or when the expense of keeping it together with the amount of the octroi or toll chargeable is likely to exceed its value, the person seizing such property may inform the person in whose possession it was that it will be sold at once; and shall sell it or cause it to be sold accordingly unless the amount of octroi or toll demanded be forthwith paid.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(*3*) If at any time before a sale has begun, the person from whose possession the property has been seized, tenders at the municipal office the amount of all expenses incurred and of the octroi or toll payable, the Chief Officer shall forthwith deliver to him the property seized. Release of property on payment.

(*4*) If no such tender is made, the property seized may be sold, and the proceeds of such sale shall be applied in payment of such octroi, or toll and the expenses incidental to the seizure, detention and sale. Sale.

(*5*) The surplus, if any, of the sale-proceeds shall be credited to the municipal fund, and may, on application made to the Chief Officer in writing within three years next after the sale, be paid to the person in whose possession the property was when seized, and if no such application is made, shall be the property of the municipality. Surplus how dealt with.

99. The standing committee, if it thinks fit, instead of requiring payment of octroi due from any person, mercantile firm or public body to be made at the time when the animals or goods in respect of which the octroi is leviable are introduced within the octroi limits of the municipal borough, may at any time direct that an account-current shall be kept on behalf of the municipality of the octroi so due from such person, firm or body. Such account shall be settled at intervals not exceeding one month, and such person, firm or public body shall give such information or details and make such deposit or furnish such security as the standing committee or any officer authorized by it in this behalf shall consider sufficient to cover the amount which may at any time be due from such person, firm or body in respect of such dues. Any amount so due at the expiry of any such interval shall, for the purposes of Chapter VIII, be deemed to be, and shall be recoverable in the same manner as, an amount claimed on account of any tax recoverable under the said Chapter. Power to keep account-current with person, firm or public body in lieu of levy in octroi on introduction of goods.

100. Where any agreement such as is referred to in clause (*b*) of sub-section (*1*) of section 47 has been entered into such one of the bodies entering into the agreement as by the terms thereof shall be specified in this behalf, shall have the same power to establish such octroi limits and octroi stations as that body may deem necessary for the entire area in which the octroi is to be collected, and shall have the same power of collecting octroi on animals or goods or both brought within the limits so established, and the provisions of [1][the Act under which that body is constituted] relating to octroi shall apply in the same way as if the limits so established were wholly comprised within the area subject to the control of [2][that body]; and the collections made and the costs, thereby incurred shall, subject to the provisions of section 44, be divided between the bodies entering into the agreement, in such proportions as shall have been determined in the agreement. Collection of octroi by one public body on behalf of others.

101. (*1*) It shall be lawful for a municipality to lease by public auction or private contract the levy of any toll that may be imposed under this Act: Farming of tolls.

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

(*2*) Where any toll has been leased under this section, any person employed by the lessee to collect such toll shall, subject to the conditions of the lease, execute the powers and perform the duties conferred and imposed by sub-sections (*1*) and (*2*) of section 98 on a person appointed to collect a toll, and any property seized shall be dealt with as if it had been seized under the provisions of that section: Persons employed by lessee of toll to have power of seizure.

Provided that no property seized may be sold except under the orders of the Chief Officer.

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[1] The words "the Act under which that body is constituted" were substituted for the words "this Act" by Bom. 14 of 1934, s. 4 (*2*) (*i*).

[2] The words "that body" were substituted for the words "the body by which they are so established". *ibid*, s. 4 (*2*) (*ii*).

(6) Powers of Provincial Government in respect of municipal taxes.

Power of Provincial Government to suspend levy of objectionable taxes.

102. If it shall at any time appear to [1][the Provincial Government] on complaint made or otherwise that any tax leviable by a municipality is unfair in its incidence, or that the levy thereof or of any part thereof is obnoxious to the interest of the general public, it may require the municipality, within such period as [1][the Provincial Government] shall fix in this behalf, to take measures for removing any objection which appears to it to exist to the said tax; and if, within the period so fixed, such requirement shall not be carried into effect to the satisfaction of [1][the Provincial Government], it may, by notification in the [2][*Official Gazette*], suspend the levy of such tax, or of such part thereof, until such time as the objection thereto shall be removed.

[1][The Provincial Government] may at any time, by a like notification, rescind any such suspension.

Power of Provincial Government to require municipalities to impose taxes.

103. Where it appears to [1][the Provincial Government] that the balance of the municipal fund of a municipality is insufficient for meeting any expenditure incurred under section 215 or for the performance of any duties for the performance of which [1][the Provincial Government] has directed the Commissioner to fix a period under section 218 [1][the Provincial Government] may by notification require the municipality to impose, within the municipal borough, any tax specified in the notification which may be imposed under section 73 and which is not at the time imposed within the said borough or to enhance any existing tax in such manner or to such extent as [1][the Provincial Government] considers fit; and the municipality shall forthwith proceed to impose or enhance, in accordance with the requisition, such tax under the provisions of this Chapter as if a resolution of the municipality had been passed for the purpose under section 75:

Provided that—

(*a*) [1][the Provincial Government] shall take into consideration any objection which the municipality or any inhabitant of the municipal borough may make against the imposition or enhancement of such tax;

(*b*) it shall not be lawful for the municipality to abandon or modify or to abolish such tax when imposed;

(*c*) [1][the Provincial Government] may at any time cancel or modify any requisition made by it under this section and the levy of the tax or the enhancement, except as to arrears theretofore accrued due, shall thereupon cease or be modified accordingly.

CHAPTER VIII.

Recovery of Municipal Claims.

Presentation of bill for taxes.

104. (*1*) When any amount,

(*a*) which by or under any provisions of this Act, is declared to be recoverable in the manner provided by this Chapter, or

(*b*) which, not being leviable under sub-section (*1*) of section 98 or payable on demand on account of an octroi or a toll, is claimable as an amount or instalment on account of any other tax which now is imposed or hereafter may be imposed in any municipal borough,

shall have become due, the Chief Officer shall, with the least practicable delay, cause to be presented to any person liable for the payment thereof, a bill for the sum claimed as due.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid*

(2) Every such bill shall specify the period of which, and the property, occupation or thing in respect of which the sum is claimed and shall also give notice of the liability incurred in default of payment and of the time within which an appeal may be preferred as hereinafter provided against such claim. Contents of bill.

(3) If the sum for which any bill has been presented as aforesaid is not paid at the municipal office or to a person authorized by any rule in that behalf to receive such payments, within fifteen days from the presentation thereof, the Chief Officer may cause to be served upon the person to whom such bill has been presented, a notice of demand in the form of Schedule V, or to the like effect. If bill not paid within fifteen days, notice of demand to issue.

105. (1) If the person on whom a notice of demand has been served under section 104, sub-section (3), does not, within fifteen days from the service of such notice, either— In what cases warrant may issue.

(a) pay the sum demanded in the notice, or

(b) show cause to the satisfaction of the Chief Officer, why he should not pay the same, or

(c) prefer an appeal in accordance with the provisions of section 110 against the demand,

such sum with all costs of the recovery may be levied under a warrant signed by the Chief Officer in consultation with the President in the form of Schedule VI or to the like effect, by distress and sale of the moveable property or the attachment and sale of the immovable property of the defaulter: provided that where any measures precautionary or otherwise, have been taken in respect of any such property for the recovery of any sum claimed by [1][the Provincial Government], any proceedings under this Chapter in respect of such property shall abate.

(2) Where the property is in the municipal borough the warrant shall be addressed to an officer of the municipality. Where the property is in another municipal borough or disrict, the warrant shall be addressed to the Chief Officer in the municipal borough or to the vice-president in the municipal district, as the case may be; [2][where the property is in a cantonment the warrant shall be addressed to the Executive Officer of the Cantonment]; and where the property is not in a municipal borough or district [2][or Cantonment], to a Government officer not lower in rank than a Mahalkari: provided that such Chief Officer, vice-president, [2][Executive Officer] or Government officer may endorse such warrant to a subordinate officer. Where the property is in the City of Bombay, the warrant shall be addressed to the Registrar of the Court of Small Causes of Bombay: To whom warrant should be addressed.

Provided that the Registrar may endorse such warrant to a subordinate officer.

(3) It shall be lawful for any officer to whom a warrant issued under sub-section (1) is addressed or endorsed, if the warrant contains a special order authorizing him in this behalf, to break open at any time between sunrise and sunset any outer or inner door or window of a building, in order to make any distress directed in the warrant, if he has reasonable grounds for believing that such building contains property which is liable to seizure under the warrant, and if after notifying his authority and purpose and duly demanding admittance he cannot otherwise obtain admittance: Power of entry under special order.

Provided that such officer shall not enter or break open the door of any apartment appropriated for women, until he has given three hours' notice of his intention and has given such women an opportunity to remove.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 4 of 1930, s. 4.

Warrant how to be executed.

(*4*) It shall also be lawful for any such officer, if authorized by the warrant, to distrain, wherever it may be found, any movable property or attach any immovable property of the person named in the warrant issued under sub-section (*1*) as defaulter, subject to the following conditions, exceptions and exemptions, namely :—

(*a*) the following property shall not be distrained :—

(*i*) the necessary wearing apparel and bedding of the defaulter, his wife and children,

(*ii*) the tools of artizans,

(*iii*) when the defaulter, is an agriculturist, his implements of husbandry, seed-grain, and such cattle as may be necessary to enable the defaulter to earn his livelihood ;

(*b*) the property distrained shall be as nearly as possible equal in value to the amount recoverable under the warrant ; and if any property has been distrained which, in the opinion of the Chief Officer or of the person to whom the warrant was addressed, should not have been so distrained, it shall forthwith be returned to the defaulter ;

(*c*) the officer shall on distraining or attaching the property forthwith make an inventory thereof, and give to the person in possession thereof at the time of distraint or attachment a written notice in the form of Schedule VII ;

(*d*) (*i*) when the property is immovable, the attachment shall be made by an order prohibiting the defaulter from transferring or charging the property in any way, and all persons from taking any benefit from such transfer or charge ;

(*ii*) the order shall be proclaimed at some place on or adjacent to the property by beat of drum or other customary mode, and a copy of the order shall be fixed on a conspicuous part of the property and then upon a conspicuous part of the municipal office, and also, when the property is land paying revenue to [1][the Provincial Government], in the office of the Collector of the district in which the land is situate ;

(*e*) any transfer of or charge on the property attached or of any interest therein made without the written permission of the Chief Officer shall be void as against all claims of the municipality enforceable under the attachment ;

Sale of goods distrained in special cases.

106. (*1*) When the property seized is subject to speedy and natural decay, or when the expense of keeping it in custody together with the amount to be levied is likely to exceed its value, the Chief Officer shall at once give notice to the person in whose possession the property was, when distrained, to the effect that it will be sold at once ; and shall sell it accordingly unless the amount named in the warrant be forthwith paid.

Sale of property distrained or attached ; application of proceeds of sale.

(*2*) If not sold at once under sub-section (*1*), the property distrained or attached or in the case of immovable property a sufficient portion thereof may, unless the warrant is suspended by the Chief Officer or the sum due by the defaulter together with all costs incidental to the notice, warrant, and distress or attachment and detention of the property, is paid, be, on the expiry of the time specified in the notice served by the officer executing the warrant, sold by public auction under the orders of the Chief Officer, and the proceeds or such part thereof as shall be requisite, shall be applied firstly in discharge of any sum due to [2][the Provincial Government] in respect of such property and secondly in discharge of the sum due and of all such incidental costs as aforesaid. Where the sum due together with costs is paid by the

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the word "Government", *ibid.*

defaulter as aforesaid, the attachment if any of immovable property shall be deemed to have been removed. Sales of immovable property under this sub-section shall be held in the manner laid down in the rules framed in that behalf.

(*3*) The surplus, if any, shall be forthwith credited to the municipal fund, notice of such credit being given at the same time to the person in whose possession the property was at the time of distraint or attachment; if such person shall claim the surplus by written application to the Chief Officer within three years from the date of the notice given under this sub-section, the Chief Officer shall refund the surplus to such person. Any sum not claimed within [1][three years] from the date of such notice shall be the property of the municipality. Surplus, if any, how dealt with

107. Where the warrant is addressed outside the municipal borough the Chief Officer may by endorsement direct the officer or Registrar of the Court of Small Causes of Bombay to whom the warrant is addressed, to sell the property distrained or attached; in such case it shall be lawful for such officer or Registrar to sell the property and to do all things incidental to the sale in accordance with the provisions of section 106, and to exercise the powers and perform the duties of the Chief Officer under section 106, sub-sections (*1*) and (*2*), in respect of such sale, except the power of suspending the warrant. Such officer or Registrar shall, after deducting all costs of recovery incurred by him, remit the amount recovered under the warrant to the Chief Officer by whom it was issued who shall dispose of the same in accordance with the provisions of section 106. Sale outside the district.

108. Fees for every notice issued under sub-section (*3*) of section 104, [2][every warrant issued under sub-section (*1*) of section 105 or distress or attachment made under sub-section (*4*) of the said section] and the maintenance of any live-stock seized under the said sub-section shall be chargeable at the rates respectively specified in such behalf in the rules of the municipality and shall be included in the costs of recovery to be levied under section 105. Fees and costs chargeable.

109. (*1*) If the Chief Officer shall at any time have reason to believe that any person from whom any sum recoverable under the provisions of this Chapter is due or is about to become due, is about forthwith to remove from the municipal borough, the Chief Officer may direct the immediate payment by such person of the sum so due or about to become due by him and cause a bill for the same to be presented to him. Summary proceedings may be taken against persons about to leave the borough.

(*2*) If, on presentation of such bill, the said person do not forthwith pay the sum due or about to become due by him the amount shall be leviable by distress and sale of the moveable property or the attachment and sale of the immovable property of the defaulter in the manner hereinbefore prescribed, except that it shall not be necessary to serve upon the defaulter any notice of demand and the Chief Officer's warrant for distress and sale may be issued and executed without any delay.

110. (*1*) Appeals against any notice of demand issued under sub-section (*3*) of section 104 may be made to any Magistrate or Bench of Magistrates by whom under the direction of the [3][Chief Presidency Magistrate in respect of the areas specified in Part II of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, or of the District Magistrates in respect of other areas,] such class of cases is to be tried. Appeals to Magistrates.

Bom. XVII of 1945.

[1] These words were substituted for the words "one year" by Bom. 4 of 1930, s. 4.

[2] These words were substituted for the words "every distress or attachment made under sub-section (*4*) of section 105" by Bom. 12 of 1931, s. 3 (*iii*).

[3] This portion was substituted for the words "District Magistrate" by Bom. 1 of 1947, s. 7.

(*2*) No such appeal shall be heard and determined unless—

(*a*) the appeal is brought within fifteen days next after service of the notice of demand complained of; and

(*b*) an application in writing, stating the grounds on which the claim of the municipality is disputed, has been made to the standing committee as follows :—

(*i*) in the case of a rate on buildings or lands or both within the time fixed in the notice given under section 81 or 82 of the assessment or alteration thereof, according to which the bill is prepared,

(*ii*) in the case of any other claim for which a bill has been presented under sub-section (*1*) of section 104 within fifteen days next after the presentation of such bill; and

(*c*) the amount claimed from the appellant has been deposited by him in the municipal office.

Entries in the assessment list and taxes and decisions to be final.

111. (*1*) Every entry in the assessment list made under the provisions of this Act against which no objection is made as hereinbefore provided, and the amount of every sum claimed from any person under this Act on account of any tax, if no appeal therefrom is made as hereinbefore provided, and the decision of the Magistrate or Bench of Magistrates upon any appeal shall, at the instance of either party, be subject to revision by the Court to which appeals against his or their decisions ordinarily lie.

(*2*) Effect shall be given by the Chief Officer to every decision of the said Magistrate or Bench of Magistrates on any appeal or any decision in revision on such appeal against any such entry or tax.

Liability of land, buildings, etc., for rates.

112. All sums due on account of any tax imposed in the form of a rate on lands or buildings or both shall, subject to prior payment of land-revenue, if any, due to His Majesty thereupon, be a first charge upon the building or land, in respect of which such tax is leviable and upon the moveable property, if any, found within or upon such building or land, and belonging to any person liable for such tax:

Provided that no arrears of any such tax shall be recovered from any occupier who is not the owner if such arrears have been due for more than one year or for a period during which such occupier was not in occupation.

Receipts to be given for all payments.

113. For all sums paid on account of any tax under this Act, a receipt stating the amount, and the tax on account of which it has been paid, shall be tendered by the person receiving such payments.

CHAPTER IX.

Municipal Powers and Offences.

(*1*) *Powers in respect of streets.*

Power regarding public streets, etc.

114. (*1*) It shall be lawful for a municipality to lay out and make new public streets; to construct tunnels and other works subsidiary to public streets; to widen, open, enlarge or otherwise improve, and to turn, divert, discontinue or stop up any public street; and, subject to the provisions of sub-section (*2*) of section 48 to lease or sell any such land, theretofore used or acquired by the municipality for the purposes of such streets, as may not be required for any public street or for any other purposes of this Act:

[1][Provided that no public street shall be permanently discont stopped up or used for any other purposes of this Act without the previous sanction of the Commissioner.]

(2) In laying out, making, turning, diverting, widening, opening, enlarging or otherwise improving any public street, in addition to the land required for the carriage-way and foot-ways and drains thereof, the municipality may purchase the land required for the construction of houses and buildings to form the said street; and, subject to the provisions contained in sub-section (2) of section 48, may sell and dispose of such additional land in perpetuity or on lease for a term of years, with such stipulations as to the class and description of houses or buildings to be erected thereon as it may think fit. Acquisition of adjacent land to form street.

115. (1) Where the standing committee considers that in any street not being a public street, or in any part of such street, within the municipal borough, it is necessary for the public health, convenience or safety that any work should be done for the levelling, paving, metalling, flagging, channelling, draining, lighting or cleaning thereof, the standing committee may by written notice require the respective owners of the lands or buildings fronting, adjoining or abutting upon such street or part thereof, to carry out such work in a manner and within a time to be specified in such notice. Power to require repair, etc., of private streets.

(2) After such work has been carried out by such owners or, as provided in section 194 by the municipality at the expense of such owners, the street or part thereof in which such work has been done may, and on the joint requisition of a majority of the said owners shall, be declared by a public notice, put up therein by the standing committee, to be a public street. And to declare such streets public.

(3) If the notice under sub-section (1) is not complied with and such work is executed by the municipality as provided in section 194, the expenses thereby incurred shall be apportioned by the standing committee between such owners in such manner as it may think fit, regard being had, if it deems it necessary, to the amount and value of any work already done by the owners or occupiers of any such lands or buildings. Apportionment of expenses in default.

116. The standing committee may, at any time, by notice fixed up in any street or part of a street not maintainable by the municipality, give intimation of its intention to declare the same a public street, and unless within one month next after such notice has been so put up, the owner or the majority of the several owners of such street or such part of a street lodges or lodge objections thereto at the municipal office, the municipality may by notice in writing put up in such street, or such part, declare the same to be a public street. Power to declare any street a public street subject to objections by the owners.

117. (1) Every person intending to lay out or make any new street, shall give notice in writing thereof to the Chief Officer and shall furnish plans and sections showing the intended level, means of drainage, direction and width of such street, and such other particulars as may be required by the by-laws in force in this behalf; and save as hereinafter provided, the level, means of drainage, direction and width of every such street shall be fixed or approved by the standing committee. New private streets.

(2) Before passing orders under sub-section (1), the standing committee may either issue a provisional order directing that for a period therein specified, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with or a demand for further particulars. Power of municipality to pass interim orders.

[1] This proviso was added by Bom. 19 of 1935, s. 9.

Right to proceed in certain cases.

(*3*) If—

(*a*) within one month from the receipt of the notice given under sub-section (*1*) the standing committee has neither—

(*i*) passed orders and served notice thereof either fixing or disapproving the proposals submitted under sub-section (*1*) with regard to level, means of drainage, direction and width of the street, nor

(*ii*) under sub-section (*2*) issued any provisional order or demand for further particulars, or if

(*b*) the standing committee, having issued such demand for and having received in accordance with the demand such further particulars, has issued no further orders within one month from the receipt of such particulars,

then the street may be laid out and made, in such manner as may have been specified in the notice under sub-section (*1*) and as is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder.

Penalty.

(*4*) Whoever lays out or makes any such street either without giving the notice required by sub-section (*1*) or, except in accordance with the provisions of sub-section (*3*), without awaiting, or otherwise than in accordance with the instructions issued by the standing committee, or in any manner contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to two hundred and fifty rupees; and the standing committee may cause any street so laid out or made to be altered, and any building constructed in such street to be altered or removed and the expense thereby incurred shall be paid to it by the offender, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

The regular line of a public street.

118. (*1*) The Chief Officer shall subject to the approval of the municipality, prescribe a line on each side of every public street within the municipal borough and may from time to time prescribe a fresh line in substitution for any line so prescribed or for any part thereof:

Provided that—

(*a*) at least one month previous to prescribing such line or such fresh line, as the case may be, the Chief Officer shall give public notice of the proposal and shall put up special notice thereof in the street or part of the street for which such line or such fresh line is proposed to be prescribed;

(*b*) the Chief Officer shall comply with any orders passed by the municipality after considering any written objection or suggestion in regard to such proposal, delivered at the office of the municipality within such time as may be specified in such public or special notice.

(*2*) The line for the time being so prescribed shall be called "the regular line of the public street".

(*3*) (*a*) Except under the provisions of section 143 no person shall construct or reconstruct any portion of any building within the regular line of the public street without the permission of the Chief Officer under section 123.

(*b*) Where the Chief Officer refuses permission to construct or reconstruct any building in any area within the regular line of the public street, such area shall with the approval of the municipality be added to the street and shall thenceforth be deemed part of the public street and shall be vested in the municipality.

(*c*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid by the municipality to the owner of any land added to a street under clause (*b*) of sub-section (*3*) for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in consequence of any action taken or order passed by the Chief Officer under the said sub-section :

Provided that no such compensation shall be payable in cases to which section 149 applies.

(*4*) Whoever contravenes the provisions of sub-section (*3*) shall be punished with fine which may extend to one thousand rupees and, in the case of a continuing contravention with an additional fine which may extend to rupees ten for every day during which such contravention continues after the conviction for the first such contravention, and the Chief Officer may—

(*a*) direct that the building be stopped, and

(*b*) with the previous sanction of the standing committee, by written notice, require such building or portion thereof to be altered or demolished in accordance with the provisions of such notice.

(*2*) *Powers to regulate buildings, etc.*

Setting projecti building

119. (*1*) If any part of a building projects beyond the regular line of a public street as prescribed under section 118 or beyond the front of the building on either side thereof, the municipality may,—

(*a*) if the projecting part thereof is a verandah, step or some other structure external to the main building, then at any time, or

(*b*) if the projecting part is not such external structure as aforesaid, then whenever the greater portion of such building or whenever any material portion of such projection part has been taken down or burned down or has fallen down,

require by written notice either that the part or some portion of the part, projecting beyond the said regular line or beyond the said front of the adjoining building on either side thereof, shall be removed ; or that such building when being rebuilt shall be set back to or towards the said regular line or the front of such building. The portion of land added to the street by such setting back or removal shall thenceforth be deemed part of the public street and be vested in the municipality.

Acquisi of land is withi regular of a street and open or occupied only by platforms, etc.

(*2*) If any land not vested in the municipality, whether open or enclosed, lies within the regular line of a public street, and is not occupied by a building other than a platform, verandah, step or other structure external to a main building, the municipality after giving the owner of the land not less than fifteen clear days' written notice of his intention, or if the land is vested in His Majesty, then with the permission in writing of the Collector, may take possession of the said land with its enclosing wall, hedge or fence, if any, and, if necessary, clear the same ; and the land so acquired shall thenceforward be deemed a part of the public street, and be vested in the municipality.

Compensation payable by the municipality.

(*3*) Compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to the owner of any land added to a street under sub-section (*1*) or acquired under sub-section (*2*), for the value of the said land, and to the owner of any building for any loss, damage or expense incurred by such owner in

consequence of any action taken by the municipality under either of the said sub-sections : provided that no such compensation shall be payable in cases to which section 149 applies.

(*4*) When the amount of compensation has been so ascertained and determined, or when a ruinous or dangerous building falling under sub-section (*1*) has been taken down under the provisions of section 149 the municipality may, after tendering the amount of compensation, if any, as may be payable, take possession of the land so added to the street, and, if necessary, may clear the same.

Setting forward to regular line of street.

120. (*1*) The standing committee may, upon such terms as it thinks fit, allow any building to be set forward for improving the line of any public street in which such building is situated.

(*2*) If the land which will be included in the premises of any person permitted under sub-section (*1*) to set forward a building belongs to the municipality, the permission of the standing committee to set forward the building shall be a sufficient conveyance to the said owner of the said land ; and the price to be paid to the municipality by the said owner for such land and the other terms and conditions of the conveyance shall be set forth in the said permission.

Roofs and external walls of buildings not to be made of inflammable materials.

121. (*1*) The external roofs and walls of buildings constructed or renewed after the coming into force of this Act, shall not be made of grass, wood, cloth, canvas, leaves, mats, or other inflammable material except with the written consent of the Chief Officer which may be given either specially in individual cases, or generally in respect of any area specified therein.

Power to require removal of roof and wall if inflammable.

(*2*) The Chief Officer may at any time by written notice require the owner of any building which has an external roof or wall made of any such material as aforesaid, to remove such roof or wall within such reasonable time as shall be specified in the notice whether such roof or wall was or was not made before the time at which this Act came into force, and whether it was made with or without the consent of the Chief Officer.

(*3*) An appeal shall lie to the standing committee against any order of the Chief Officer refusing the consent under sub-section (*1*) or against any notice given by the Chief Officer under sub-section (*2*) if made within fifteen days of the receipt of such refusal or notice, as the case may be.

Penalty.

(*4*) Whoever without such consent as is required by sub-section (*1*), makes, or causes to be made, or in disobedience to the requirements of a notice given under sub-section (*2*) suffers to remain, any roof or wall of such material as aforesaid, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day on which the offence is continued after the date of the first conviction.

Level of buildings.

122. No building shall hereafter be constructed upon a lower level than will allow of the drainage thereof being led into some public sewer or drain either then existing or projected by the municipality, or into some stream or river or into the sea or some cesspool or other suitable place which may be approved of by the Chief Officer.

Notice of new buildings.

123. (*1*) Before beginning to construct any building or to alter externally or add to any existing building, or to construct or reconstruct any projecting portion of a building in respect of which the standing committee is empowered by section 119 to enforce a removal or setback, or to construct or reconstruct which the Chief

Officer is empowered by section 118 to give permission, the person intending so to construct, alter, add or reconstruct shall give to the Chief Officer notice thereof in writing and shall furnish to him at the same time, if required by a by-law or by special order to do so, a plan showing the levels, at which the foundation and lowest floor of such building are proposed to be laid, by reference to some level known to the Chief Officer, and all information required by the by-laws or demanded by the Chief Officer regarding the limits, design, ventilation, and materials of the proposed building, and the intended situation and construction of the drains, sewers, privies, water-closets, and cesspools, if any, to be used in connection therewith, and the location of the building with reference to any existing or projected streets, and the purpose for which the building will be used.

Power of Chief Office to pass orders.

(2) Save as otherwise provided in this Act or the rules and by-laws thereunder, the Chief Officer may either give permission to construct, alter, add or reconstruct according to the plan and information furnished or may impose in writing conditions, in accordance with this Act and the rules and by-laws made thereunder, as to level, drainage, sanitation, materials or to the dimensions and cubical contents of rooms, doors, windows and apertures for ventilation or to the number of storeys to be erected, or with reference to the location of the building in relation to any street existing or projected, or the purpose for which the building is to be used, or may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to his satisfaction.

(3) The municipality may, before any work has been commenced in pursuance of any permission granted by the Chief Officer under sub-section (2), revoke such permission and may give fresh permission in lieu thereof on such conditions, in accordance with this Act and the rules and by-laws made thereunder, with reference to the matter mentioned in the said sub-section, as it thinks proper, and may direct that the work shall not be proceeded with unless and until all questions connected with the respective location of the building and any such street have been decided to its satisfaction.

Or to suspend the work or require further particulars.

(4) Before issuing any orders under sub-section (2), the Chief Officer may, within one month from the receipt of such notice, either issue—

(a) a provisional order directing that for a period, which shall not be longer than one month from the date of such order, the intended work shall not be proceeded with, or

(b) may demand further particulars.

Right to proceed in certain cases.

(5) A work proposed in a notice given under sub-section (1) may be proceeded with in the manner specified in such notice, provided such manner is not inconsistent with any provision of this Act or of any by-law for the time being in force thereunder in the following cases, namely :—

(a) in case the Chief Officer within one month from the receipt of the notice given under sub-section (1) has neither—

(i) passed orders under sub-section (2) and served notice thereof in respect of the intended work; nor

(ii) issued under sub-section (4) any provisionsal order or any demand for further particulars;

(b) in case the Chief Officer having issued such demand for and having received such further particulars, has issued no further orders within one month from the receipt of such particulars.

Commencement of work.

(*6*) No person who becomes entitled under sub-section (*2*) or (*5*) to proceed with any intended work of which notice is required by sub-section (*1*) shall commence such work after the expiry of the period of one year from the date on which he first became entitled so to proceed therewith, unless he shall have again become so entitled by a fresh compliance with the provisions of sub-sections (*1*) to (*5*). And no person to whom permission to erect or alter or add to any building has been granted by the municipality under section 96 of the Bombay District Municipal Act, 1901, shall be entitled to commence such work after the expiry of one year from the date on which this Act comes into force. Bom. III of 1901.

(*7*) Whoever begins any construction, alteration, addition or reconstruction without giving the notice required by sub-section (*1*) or without furnishing any plan, information or particulars required by or under this section, or, except as provided in sub-section (*5*), without awaiting or in any manner contrary to such legal orders of the Chief Officer as may be issued under this section or contrary to the provisions of sub-section (*5*) or (*6*) or in any other respect contrary to the provisions of this Act or of any by-law in force thereunder, shall be punished with fine which may extend to one thousand rupees ; and in the case of a continuing contravention of any of the aforesaid provisions, he shall be liable to an additional fine which may extend to ten rupees, for each day during which such contravention continues after conviction for the first such contravention ; and the Chief Officer may—

(*a*) direct that the construction, alteration, addition or reconstruction be stopped, and

(*b*) upon a conviction being obtained under sub-clause 7 by written notice, require such construction, alteration, addition or reconstruction to be altered or demolished in accordance with the provisions of such notice.

(*8*) The Chief Officer may at any time inspect any work of which notice is required by sub-section (*1*) without giving notice of his intention to do so ; and at any time during the execution of any such work as aforesaid, may, by written notice, specify any matter in respect of which the execution of such work is in contravention of any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under this section ; and require the person executing such work to cause anything done contrary to any such provision or by-law or order to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

Explanation.—The expression " to construct a building " throughout this Chapter includes—

(*a*) any material alteration, enlargement or reconstruction of any building, or of any wall, verandah, fixed platform, plinth, doorstep or the like, whether constituting part of a building or not,

(*b*) the conversion into a place for human habitation of any building not originally constructed for human habitation,

(*c*) the conversion into more than one place for human habitation of a building originally constructed as one such place,

(*d*) the conversion of two or more places of human habitation into a greater number of such places,

(*e*) such alterations of the internal arrangements of a building, as affect its drainage, ventilation or other sanitary arrangements, or its security or stability, and

(*f*) the addition of any rooms, buildings, or other structures to any building, and a building so altered, enlarged, reconstructed, converted or added to, is throughout this Chapter included under the expression "a new building".

124. (*1*) Every person erecting a building or executing a work as described in sub-section (*1*) of section 123 shall, within one month after the completion of the erection of such building or the execution of such work, deliver or send or cause to be delivered or sent to the Chief Officer at his office, notice in writing of such completion, and shall give to the Chief Officer all necessary facilities for the inspection of such building or of such work: Completion certificates; permission to occupy or use.

Provided that—

(*a*) such inspection shall be commenced within seven days from the date of receipt of the notice of completion; and

(*b*) the Chief Officer may, not later than one month from the date of receipt of the notice of completion by written intimation addressed to the person from whom the notice of completion was received, and delivered at his address as stated in such notice or, in the absence of such address, affixed to a conspicuous part of the building to which such notice relates,

(*i*) give permission for the occupation of such building or for the use of the building or part thereof affected by such work, or.

(*ii*) refuse such permission in case such building has been erected or such work expected so as to contravene any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 intimating to the person who gave the notice under sub-section (*1*) of section 123 the reasons for such refusal and requiring suchperson, or, if the person responsible for giving notice under sub-section (*1*) of section 123 is not at the time of such notice the owner of such building or work, then such owner to cause anything which is contrary to any provision of this Act or of any by-law made under this Act at the time in force or of any order passed under section 123 to be amended or to do anything which by any such provision or by-law or order he is required to do but which has been omitted.

(*2*) No person shall occupy or permit to be occupied any such building, or use or permit to be used the building or part thereof affected by any such work, until

(*a*) the permission referred to in proviso (*b*) to sub-section (*1*) has been received, or

(*b*) the Chief Officer has failed for one month after the receipt of the notice of completion to intimate as aforesaid his refusal of the said permission.

(*3*) Whoever contravenes the provisions of this section or fails to comply with any order or requisition made thereunder shall be punished with fine which may extend to one hundred rupees and, in the case of a continuing contravention or noncompliance, with an additional fine which may extend to ten rupees for every-day during which such contravention or non-compliance continues after the conviction for the first such contravention or non-compliance.

125. It shall not be lawful for any person to erect any hut or shed or range or block of huts or sheds or to add any hut or shed to any range or block of huts or sheds already existing when this Act comes into operation, without giving previous notice to the Chief Officer; the Chief Officer may require such huts or sheds to be built so that they stand in regular lines, with a free passage or way in front of and between every two lines, of such width as the Chief Officer may think proper. Regulation of huts.

for ventilation and to facilitate scavenging, and at such a level as will admit of sufficient drainage; and may require such huts to be provided with such number of privies and such means of drainage as he may deem necessary. If any hut or shed or range or block be built without such notice being given to the Chief Officer or otherwise than as required by the Chief Officer, the Chief Officer may give written notice to the owner or builder thereof, or to the owner or occupier of the land on which the same is erected or is being erected, requiring him within such reasonable time as shall be specified in the notice to take down and remove the same, or to make such alterations therein or additions thereto as having regard to sanitary considerations the Chief Officer may think fit.

Improvement of huts.

126. (*1*) Where the standing committee is of opinion that any hut or shed whether used as a dwelling or as a stable or for any other purpose, and whether existing at the time when this Act comes into operation or subsequently erected, is by reason—

(*a*) of insufficient ventilation or of the manner in which such hut or shed is crowded together with other huts or sheds, or

(*b*) of the want of a plinth or of a sufficient plinth or of sufficient drainage, or

(*c*) of the impracticability of scavenging,

attended with risk of disease to the inhabitants of the neighbourhood, it shall cause a notice to be affixed to some conspicuous part of such hut or shed, requiring the owner or occupier thereof, or the owner of the land on which such hut or shed is built, within such reasonable time as may be fixed by the standing committee in this behalf, to take down and remove such hut or shed, or to carry out such alterations or works as the standing committee may deem necessary for the avoidance of such risk.

(*2*) Where any such owner or occupier refuses or neglects to take down and remove such hut or shed or to carry out such alterations or works within the time appointed, the Chief Officer may cause such hut or shed to be taken down, or such alterations or works to be carried out, in accordance with the requirements of the standing committee.

(*3*) Where such hut or shed is taken down by the Chief Officer, the said officer shall cause the materials of the hut or shed to be sold, if such sale can be effected; and the proceeds, after deducting all expenses, shall be paid to the owner of the hut or shed, or if the owner is unknown or the title disputed, shall be held in deposit by the municipality until the person interested therein shall obtain an order of a competent Court for the payment of the same:

Provided always that where a hut or shed, existing at the time when the land on which it is situate first became part of a municipal district or borough, is taken down and removed under this section, compensation shall further be paid to the owner or owners thereof and the amount thereof, in case of dispute, shall be ascertained and determined in the manner provided in section 198.

(*3*) *Powers connected with drainage, etc.*

Municipal control over drains, etc.

127. (*1*) All sewers, drains, privies, water-closets, house-gullies and cesspools within the municipal borough shall be under the survey and control of the municipality.

(*2*) All covered sewers, drains, and cesspools, whether public or private, shall be provided by the municipality or other persons to whom they severally belong, with proper traps or other means of ventilation; and the Chief Officer may by written

notice call upon the owner of any such covered sewers, drains or cesspools to make provision accordingly.

128. (*1*) It shall be lawful for a municipality for any drainage purposes to carry any drain, sewer, conduit, tunnel, culvert, pipe or watercourse through, across or under any street or any place laid out as or intended for a street, or under any cellar or vault which may be under any street, and, after giving reasonable notice in writing to the owner or occupier, into, through or under any land whatsoever within the municipal borough. Powers for making and repairing drains.

(*2*) A municipality, or any person acting under its authority, may construct a new drain in the place of an existing drain in any land wherein any drain vested in the municipality has been already constructed, or repair or alter any drain vested in the municipality.

(*3*) In the exercise of any power under this section no unnecessary damage shall be done, and compensation, which shall in case of dispute be ascertained and determined in the manner provided in section 198 shall be paid by the municipality to any person who sustains damage by the exercise of such power.

129. (*1*) If any building or land be at any time undrained, or not drained to the satisfaction of the Chief Officer, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner to construct or lay from such building or land a drain or pipe of such size and materials, at such level, and with such fall as he may think necessary for the drainage of such building or land into— Power to require sufficient drainage of houses.

(*a*) some drain or sewer, if there be a suitable drain or sewer within fifty feet of any part of such building or land, or

(*b*) a covered cesspool to be provided by such owner and approved by the Chief Officer.

130. (*1*) It shall not be lawful to construct or reconstruct any building, or to occupy any building newly constructed or reconstructed, unless and until— New buildings not to be erected without drains.

(*a*) a drain be constructed of such size, materials and description, at such level and with such fall, as shall appear to the Chief Officer to be necessary for the effectual drainage of such building;

(*b*) there have been provided for and set up in such building and in the land appurtenant thereto, all such appliances and fittings as may appear to the Chief Officer to be necessary for the purposes of gathering and receiving the drainage from, and conveying the same off, the said building and the said land, and of effectually flushing the drain of the said building and every fixture connected therewith.

(*2*) The drain to be constructed as aforesaid shall empty into a municipal drain, or into some place set apart by the municipality for the discharge of drainage, situate at a distance not exceeding fifty feet from such building; but if there is no such drain or place within that distance, then such drain shall empty into a cesspool provided by the owner of such building and approved by the Chief Officer.

Powers of owners and occupiers of buildings or lands to drain into municipal drains.

131. (*1*) The owner or occupier of any building or land within the municipal borough shall be entitled to cause his drains to empty into a municipal drain: provided that he first obtains the written permission of the Chief Officer, and that he complies with such conditions as the Chief Officer may prescribe as to the mode in which and the superintendence under which the communications are to be made between drains not vested in the municipality and drains which are so vested.

(*2*) An appeal shall lie to the standing committee against any order of the Chief Officer under sub-section (*1*) if made within fifteen days of the receipt of such order.

Right to carry drain through land or into drain belonging to other persons.

132. (*1*) If the owner or occupier of any building or land desires to connect the same with any municipal drain, by means of a drain to be constructed through land, or to be connected with a drain, belonging to or occupied by or in the use of some other person, he may make a written application in that behalf to the Chief Officer.

(*2*) Subject to the control of the standing committee the Chief Officer thereupon, after giving to such other person a reasonable opportunity of stating any objection to such application, may, if no objection is raised or if any objection which is raised is in his opinion insufficient, by an order in writing authorize the applicant to carry his drain into, through, or under the said land, or into the said drain, as the case may be, in such manner and on such conditions as to the payment of rent or compensation, and as to the respective responsibilities of the parties for maintaining, repairing, flushing, cleaning and emptying the said drains as may appear to him to be adequate and equitable.

(*3*) Every such order shall be a competent authority to the person in whose favour it is made, or to any agent or other person employed by him for this purpose, after giving or tendering to the owner, occupier or user of the said land or drain the compensation or rent, if any, specified in the said order, and otherwise fulfilling as far as possible the conditions of the said order, and after giving to the said owner, occupier, or user reasonable notice in writing, to enter upon the land specified in the said order with assistants and, workmen at any time between sunrise and sunset and, subject to all provisions of this Act, to do all such work as may be necessary:

(*a*) for the construction or connection of the drain, as may be authorised by the said order;

(*b*) for renewing, repairing, or altering the same as may be necessary from time to time; or

(*c*) for discharging any responsibility attaching to him under the terms of the order as to maintaining, repairing, flushing, cleaning or emptying the said drain or any part thereof.

(*4*) In executing any work under this section as little damage as possible shall be done, and the owner or occupier of the buildings or lands for the benefit of which the work is done, shall—

(*a*) cause the work to be executed with the least practicable delay;

(*b*) fill in, reinstate and make good at his own cost and with the least practicable delay the ground or any portion of any building or other construction opened, broken up or removed for the purpose of executing the said work; and

(*c*) pay compensation to any person who sustains damage by the execution of the said work.

133. If the owner of any land into, through or under which a drain has been carried under section 132 whilst such land was unbuilt upon, shall at any subsequent time desire to construct a building thereon, the Chief Officer, subject to the control of the standng committee shall, if he sanctions the construction of such building, by written notice require the owner or occupier of the building or land, for the benefit of which such drain was constructed, to close, remove or divert the same, and to fill in, reinstate and make good the land in such manner as he may deem to be necessary, in order to admit of the construction or safe enjoyment of the proposed building.

Rights of owner of land through which drain is carried in regard to subsequent building thereon.

134. (*1*) Where the Chief Officer is of opinion that any privy or cesspool, or additional privies or cesspools, should be provided in or on any buildng or land, or in any municipal borough in which with the approval of the sanitary board, a water-closet system has been introduced, that water-closets should be substituted for the existing privies in or on any building or land, or that additional water-closets should be proved therein or thereon, the Chief Officer, subject to the control of the standing committee, may by written notice call upon the owner of such building, or land to privide such privies, cesspools or water-closets at such sites as he may deem proper.

Provision of provies, etc.

(*2*) The Chief Officer subject to the control of the standing committee may by written notice require any person or persons employing workmen or labourers exceeding twenty in number, or owning or managing any market, school or theatre or other place of public resort, to provide such latrines and urinals at such sites as he may direct, and to cause the same to be kept in proper order, and to be daily cleaned.

(*3*) The Chief Officer subject to the control of the standing committee may by written notice require the owner or occupier of any land upon which there is a privy or urinal, to have such privy or urinal shut out, by a sufficient roof and a wall or fence, from the view of persons passing by or resident in the neighbourhood, or to alter as he may direct any privy door or trap door which opens on to any street, and which he deems to be a nuisance.

135. (*1*) All sewers, drains, privies, water-closets, urinals, house-gullies and cesspools within a municipal borough shall, unless constructed, at the cost of the municipality, be altered, repaired, and kept in proper order at the cost and charge of the owners of the lands or buildings to which they belong, or for the use of which they have been constructed or continued; and the Chief Officer subject to the control of the standing committee may by written notice require any such owner to alter, repair, and put the same in good order in such manner as he may think fit.

Power to require owners to keep drains, etc., in proper order; or to demolish or close a privy or cesspool.

(*2*) Subject to the control of the standing committee the Chief Officer may by written notice require the owner to demolish or close any privy or cesspool, whether constructed before or after the coming into operation of this Act, which in the opinion of the Chief Officer is a nuisance, or is so constructed as to be inaccessible for the purpose of scavenging or incapable of being properly cleaned or kept in good order.

136. When any building or land within a municipal borough has a drain communicating with any cesspool or sewers, the Chief Officer, if he considers that such drain, though it may be sufficient for the drainage of such building or land and though it may be otherwise unobjectionable, is not adapated to the general sewerage of the locality, may, subject to the control of the standing committee, close such drain and such cesspool or sewer, whether they are or are not on land vested in the municipality, on providing a drain or drains equally effectual for the drainage of such building or land, and the Chief Officer may, subject as aforesaid, do any work necessary for the purpose.

Power to close existing private drains.

Power in respect of sewers, etc., unauthorizedly constructed, rebuilt or unstopped.

137. The standing committee may by written notice require that any sewer, drain, privy, water-closet, urinal, house-gully or cesspool on any land within a municipal borough, constructed, rebuilt or unstopped—

(*a*) after such land became part of a municipal district or borough, and

(*b*) either without the consent or contrary to the orders, directions or general regulations or by-laws, of the municipality, or contrary to the provisions of any enactment in force at the time when it was so constructed, rebuilt or unstopped,

shall be demolished, amended or altered, as it may deem fit, by the person by whom it was so constructed, rebuilt or unstopped; and every person so constructing, rebuilding or unstopping any such sewer, drain, privy, water-closet, urinal, house-gully or cesspool, whether he does or does not receive such notice or does or does not comply therewith, shall, in addition to any penalty to which he may be liable on account of such non-compliance, be punished with fine which may extend to twenty-five rupees.

Encroachments on municipal drains.

138. (*1*) Whoever, without the written consent of the Chief Officer first obtained, makes or causes to be made any drain into or out from any of the sewers or drains vested in a municipality, shall be punished with fine which may extend to twenty-five rupees, and the Chief Officer may by written notice require such person to demolish, alter, remake, or otherwise deal with such drain as he may think fit.

(*2*) No building shall be newly constructed or reconstructed over any sewer, drain, culvert or gutter vested in a municipality, without the written consent of the Chief Officer, and the Chief Officer may by written notice require any person who has so constructed or reconstructed any building without such written consent, to pull down or otherwise deal with the same as he may think fit.

Inspection of drains, etc.

139. (*1*) A Chief Officer after due notice to the occupier may inspect any sewer, drain, privy, water-closet, urinal, house-gully or cesspool; and for that purpose, at any time between sunrise and sunset may enter upon any lands or buildings with assistants and workmen, and cause the ground to be opened where he or they may think fit, doing as little damage as may be.

Expense of inspection when to be borne by the municipality.

(*2*) The expense of such inspection and of causing the ground to be closed and made good as before shall be borne by the municipality, unless the sewer, drain, privy, water-closet, urinal, house-gully or cess-pool is found to be in bad order or condition, or was constructed in contravention of the provisions of any enactment or of any by-laws or orders thereunder in force at the time or issued in respect of such construction; in which case such expense shall be paid by the owner of such sewer, drain, privy, water-closet, house-gully or cess-pool; and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Standing committee may execute certain works under this sub-chapter without allowing option to person concerned of executing the same. Expenses in such cases by whom to be paid.

140. (*1*) The standing committee may, if it thinks fit, cause any work, the execution of which may be ordered by or on behalf of the municipality under any of the provisions of this sub-chapter, to be executed by municipal or other agency under its own orders, without first of all giving the person by whom the same would otherwise have to be executed the option of doing the same.

(*2*) The expenses of any work so done shall be paid by the person aforesaid, unless the municipality shall, by a general or special order or resolution, sanction as it is hereby empowered to sanction, the execution of such work at the charge of the municipal fund.

141. Any pipes, fittings, receptacles, or other appliances for or connected with the drainage of any private building or land, shall, if supplied, constructed or erected at the expense of the municipality, be deemed to be municipal property, unless the municipality shall have transferred its interest therein to the owner of such building or land. Pipes, etc., constructed by municipality to be municipal property.

(4) Powers in respect of water-supply.

142. For the purpose of obtaining a supply or an additional supply of water or of distributing the same, the municipality shall have the same powers and be subject to the same restrictions for carrying, renewing, repairing and altering water mains, pipes and ducts within or without the municipal borough as it has and is subject to under the provisions hereinbefore contained for carrying, renewing and repairing drain within the municipal borough. Power of carrying water mains.

(5) Powers regarding external structures, etc.

143. (*1*) The Chief Officer, subject to any by-laws made under the provisions of this Act, may give written permission to the owners or occupiers of buildings in public streets to put up open verandahs, balconies or rooms, to project from any upper storey of such buildings, to an exent not exceeding four feet beyond the line of the plinth or basement wall of tht building; and may prescribe the extent to which and the conditions under whicheroofs, eaves, weather-boards, shop-boards and the like may be allowed to project over such streets. Permission necessary for certain projections.

(*2*) (*a*) Notwithstanding any proceedings which may be taken under clause (*b*) of this sub-section, the Chief Officer may, by written notice, require the owner or occupier of any such building to remove or alter any such projection which has been constructed either without, or contrary in any manner to, the permission or orders given or issued by or on behalf of the municipality.

(*b*) Any such owner or occupier putting up any projection as aforesaid without such permission or in contravention of such permission or orders, shall be punished with fine which may extend to twenty-five rupees; and if any such owner or occupier fails to remove any projection in respect of which he has been convicted under this section, he shall be punished with further fine which may extend to five rupees for each day on which such failure or neglect continues.

(*3*) The Chief Officer may, by written notice, require the owner or occupier of any building to remove or alter any projection, encroachment or obstruction which, whether made before or after the site of such building became part of a municipal district or borough, shall have been made against or in front of such building, and which— Removal of projections.

(*a*) overhangs or juts into or in any way projects or encroaches upon any public street, so as to be an obstruction to safe and convenient passage along such street, or

(*b*) projects and encroaches into, upon or over any uncovered aqueduct, drain or sewer in any such street, so as to obstruct or interfere with such aqueduct, drain or sewer or the proper working thereof:

Provided always that the Chief Officer shall, if such projection, encroachment, or obstruction shall have been made in any place before the date on which such place became part of a municipal district or borough or after such date with the written permission of the municipality, pay reasonable compensation

to every person, who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be ascertained and determined in the manner provided in section 198.

Troughs and pipes for rain water.

144. The Chief Officer may by written notice require the owner of a building in any street to put up and keep in good condition proper troughs and pipes for catching and carrying the water from the roof and other parts of such building, and for discharging the same, in such manner as he may think fit, so that it shall not fall upon the persons passing along the street.

Fixing of lamps, brackets, etc., to houses.

145. The Chief Officer may erect or fix to the outside of any building brackets for lamps to be lighted with oil or gas, or subject to the provisions of the [1]Indian Electricity Act, 1910, for lamps to be lighted with electricity or otherwise or subject to the provisions of the [1]Indian Telegraph Act, 1885, for telegraph wires or telephone wires, or wires for the conduct of electricity for locomotive purposes; or such pipes as he may deem necessary for the proper ventilation of sewers and water-works; such brackets and pipes shall be erected so as not to occasion any inconvenience or nuisance to the occupants of the said building or of any others in the neighbourhood, or to the public.

IX of 1910.

XIII of 1885.

Naming streets and numbering houses; penalty for defacing, etc.

146. (*1*) The municipality may from time to time cause to be put up or painted on a conspicuous part of any building at or near each end or corner of or entrance to a street, the name by which such street is to be known, and may from time to time fix a number in a conspicuous place on the outer side of any building, or at the entrance of the enclosure thereof fronting the street.

(*2*) Any person who destroys, pulls down or defaces any such name or number, or puts any name or number different from that put up by the municipality, and any owner or occupier of any building who shall not at his own expense keep such number in good order after it has been put up thereon, shall be punished with fine which may extend to twenty-five rupees.

Penalty for defacing building, etc.

147. Any person—

(*a*) who, without the consent of the owner or occupier, and in the case of municipal property without the permission in writing of the Chief Officer affixes any posting bill, placard or other paper or means of advertisement against or upon any building, wall, board, fence, pale, post, lamp-post or the like, or

(*b*) who, without such consent as aforesaid, writes upon, soils, defaces or marks any such building, wall, board, fence, pale, post, lamp-post or the like, with chalk or paint or in any other way whatsoever,

shall be punished with fine which may extend to twenty rupees.

Removal and trimming of hedges, trees, etc.

148. The Chief Officer may by written notice require the owner or occupier of any land so to trim or prune the hedges thereof bordering any public street that the said hedges may not exceed the height of four feet from the level of the street, and width of four feet; and to cut down, lop, or trim all trees or shrubs which in any way over-hang endanger or obstruct, or which such officer deems likely to over-hang endanger or obstruct any public street or to cause damage thereto, or which so overhang any public tank, well or other provision for water- supply as to pollute, or be likely to pollute the water thereof.

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[1] Central Acts

(6) Powers for promotion of public health, safety and convenience.

149. (*1*) Where any building or anything affixed thereon is deemed by the Chief Officer to be in a ruinous state or likely to fall or in any other way dangerous to any inhabitant of such building or of any neighbouring building or to any occupier thereof or to passengers, the Chief Officer shall immediately, if it appears to him to be necessary, cause a proper hoard or fence to be put up for the protection of passengers : Ruinous or dangerous buildings ; precautionary measures.

Provided that if the danger be not of hourly imminence, the Chief Officer may, instead of causing a hoard or fence to be put up, issue in the first instance notice in writing to the owner or occupier to put up a proper hoard or fence, and in the event of the owner or occupier failing to put up within two days from the service of such notice a hoard or fence which the Chief Officer considers sufficient in the circumstances of the case, the Chief Officer, shall at once cause such hoard or fence to be put up.

(*2*) The Chief Officer shall also cause notice in writing to be given to the owner or occupier, requiring such owner or occupier forthwith to take down, secure, or repair such building, or thing affixed thereon, as the case shall require ; and if such owner or occupier do not begin to repair, take down, or secure such building or thing within three days after the service of such notice, and complete such work with due diligence, the Chief Officer shall cause all or so much of such building or thing as he shall think necessary to be taken down, repaired or secured. Repairs to be made by owner or occupier ; default by such.

(*3*) All expenses incurred by the Chief Officer under this section shall be paid by the owner or occupier of such building and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

150. (*1*) A Chief Officer may at any time by written notice require that the owner of or any person who has the control over any well, stream, channel, tank or other source of water supply, shall, whether such source is private property or not, within a reasonable time to be specified in the notice, or in any case falling under clause (*d*) within twenty four hours of such notice— Powers and duties with regard to dangerous, stagnant or insanitary sources of water-supply.

(*a*) keep and maintain any such source of water-supply, other than a stream, in good repair, or

(*b*) cleanse any such source of water-supply from silt, refuse and decaying vegetation, or

(*c*) in such manner as the Chief Officer may prescribe, protect any such source of water supply from pollution by surface drainage, or

(*d*) repair, protect or enclose in such manner as the Chief Officer approves, any such source of water supply other than a stream in its natural flow, if for want of sufficient repair, protection or enclosure, such source of water-supply is in the opinion of the Chief Officer dangerous to the health or safety of the public or of any person having occasion to use or to pass or approach the same, or

(*e*) desist from using and from permitting others to use for drinking purposes any such source of water-supply, other than a stream in its natural flow, which is proved to the satisfaction of the Chief Officer to be unfit for drinking, or

(*f*) if notwithstanding any such notice under clause (*e*) such use continues and cannot in the opinion of the Chief Officer be otherwise prevented, close either temporarily or permanently or fill up or enclose or fence in such manner as the Chief Officer considers sufficient to prevent such use, such source of water-supply as aforesaid, or

(*g*) drain off or otherwise remove from any source of water-supply, or from any land or premises or receptacle or reservoir attached or adjacent thereto, any stagnant water which the Chief Officer considers is injurious to health or offensive to the neighbourhood.

Remedy on non-compliance with directions issued.

(*2*) If the owner or person having control as aforesaid, fails or neglects to comply with any such requisition within the time specified by or under the provisions of sub-section (*1*), the Chief Officer may, and if in his opinion immediate action is necessary to protect the health or safety of any person, shall at once proceed to execute the work required by such notice; and all the expenses incurred therein by the Chief Officer shall be paid by the owner of, or person having control over, such water-supply, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII:

Provided that in the case of any well or private stream or of any private channel, tank or other source of water-supply, the water of which is used by the public or by any section of the public as of right, the expenses incurred by the Chief Officer or necessarily incurred by such owner or person having such control, may, if the standing committee so direct, be paid from the municipal fund.

Displacing pavements, etc.

151. (*1*) Whoever displaces, takes up, or makes any alteration in the pavement, gutter, flags or other materials of any public street, or the fences, walls, or posts thereof, or any municipal lamp, lamp-post, bracket, water-post, hydrant, or other such municipal property therein, without the written consent of the Chief Officer or other lawful authority, shall be punished with fine which may extend to one hundred rupees.

Penalty for failure to replace after notice.

(*2*) Any person who, having displaced, taken up or made alteration in any such pavement, gutter, flags, or other materials or in such fences, walls, posts, municipal lamps, lamp-posts, brackets, water-posts, hydrants, or other municipal property, shall fail to replace or restore the same to the satisfaction of the Chief Officer after notice to do so, shall be punished with fine which may extend to fifty rupees, and shall pay any expense which may be incurred in replacing or restoring the same; and such expense shall be recoverabe in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Obstruction and encroachments upon public streets and open spaces.

152. (*1*) Whoever in any [1][area] after it has become a municipal district, or borough,

(*a*) shall have built or set up, or shall build or set up, any wall, or any fence, rail, post, stall, verandah, platform, plinth, step or any projecting structure or thing, or other encroachment or obstruction, or

(*b*) shall deposit or cause to be placed or deposited any box, bale, package or merchandise, or any other thing,

in any public [2][place or] street or in or over or upon any open drain, gutter, sewer, or aqueduct in such [2][place or] street shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which such projection, encroachment, obstruction or deposit continues after the date of first conviction for such offence.

(*2*) The Chief Officer shall have power to remove any such obstruction or encroachment, and shall have the like power to remove any unauthorized obstruction or encroachment of the like nature in any open space not being private property, whether such space is vested in the municipality or not: provided that if the space

[1] The word "area" was substituted for the word "place" by Bom. 19 of 1935, s. 10 (*a*) (*i*).
[2] The words "place or" were inserted, *ibid.*, s. 10 (*a*) (*ii*) and (*iii*).

be vested in His Majesty the permission of the Collector shall have first been obtained; the expense of such removal shall be paid by the person who has caused the said obstruction or encroachment, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

(*3*) Whoever, not being duly authorized in that behalf, removes earth, sand or other material from, or makes any encroachment in or upon any open space which is not private property, shall be punished with fine which may extend to fifty rupees, and, in the case of encroachment, with further fine which may extend to ten rupees for every day on which the encroachment continues after the date of first conviction for such offence.

(*4*) Nothing contained in this section shall prevent the Chief Officer from allowing any temporary occupation of or erections in any public street on occasions of festivals and ceremonies, or the piling of fuel in by-streets and spaces for not more than ten days and in such manner as not to inconvenience the public or any individual [1][or from allowing the occupation of, or temporary erection of structures on, any such streets or spaces for any other purpose in accordance with by-laws made under the Act].

(*5*) Nothing contained in this section shall apply to any projection duly authorized under sub-section (*1*) of section 143.

Hoards to be set up during repairs, etc.

153. (*1*) A person intending to construct or take down any building or to alter or repair any building externally shall, if the position or circumstances of the work is or are likely to cause or may cause obstruction, danger or inconvenience in any street, before beginning such work—

(*a*) first obtain a licence in writing from the Chief Officer so to do, and

(*b*) cause sufficient hoards or fences to be put up in order to separate the area where the work is to be carried on from the street, and shall maintain such hoard or fence standing and in good condition to the satisfaction of the Chief Officer during such time as the Chief Officer considers necessary for the public safety or convenience, and shall cause the same to be sufficiently lighted during the night, and shall remove the same when directed by the Chief Officer.

(*2*) Whoever contravenes any of the provisions of this section shall be punished with fine which may extend to fifty rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of such conviction for such offence.

Fencing and lighting during repairs, etc.

154. (*1*) The Chief Officer shall, during the construction or repair of any of the streets, sewers, drains or other premises vested in the municipality, take proper precaution for guarding against accident, by shoring up and protecting the adjoining buildings, and shall cause such bars, chains or posts as he shall think fit, to be fixed across or in any street to prevent the passage of carriages, carts or other vehicles, or of cattle or horses, while such construction or repair is being carried on and shall cause any such construction or repair work in a street to be sufficiently lighted and guarded during the night.

(*2*) Whoever takes down, alters or removes any of the said bars, chains, or posts, or removes or extinguishes any such light without the authority or consent of the Chief Officer, shall be punished with fine which may extend to fifty rupees.

[1] These words were added by Bom. 19 of 1935, s. 10 (*b*).

Timber not to be deposited or hole made in street without permission.

155. (*1*) No person shall, without the written permission of the Chief Officer or otherwise than in accordance with the conditions of such permission, make a hole in any street or deposit on any street any timber, stone, brick, earth or other material that has been or is intended to be used for building; such permission shall be terminable at the discretion of the Chief Officer; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed to the satisfaction of the Chief Officer until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause such materials or hole to be sufficiently lighted during the night.

(*2*) Whoever contravenes any of the provisions of sub-section (*1*) shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to ten rupees for every day or night, as the case may be, on which such contravention continues, after the date of the first conviction for such offence.

Dangerous quarrying.

156. (*1*) If in the opinion of the Chief Officer the working of any quarry or the removal of stone, earth or other material from the soil in any place, is dangerous to persons residing in or having a right of access to the neighbourhood thereof, or creates or is likely to create a nuisance, the Chief Officer may, by written notice, require the owner of the said quarry or place or the person responsible for such working or removal not to continue or permit the working of such quarry or the removing of such material, or to take such order with such quarry or place as the Chief Officer shall direct for the purpose of preventing the danger or of abating the nuisance arising or likely to arise therefrom:

Provided that if such quarry or place is vested in His Majesty, or if such working thereof or removal therefrom as aforesaid is being carried on by or on behalf of [1][the Crown]; or any person acting with the permission or under the authority of [1][the Crown] or of any [2][servant of the Crown] acting as such, the Chief Officer shall not take such action, unless and until the Collector has consented to his so doing:

Provided further that the Chief Officer shall immediately cause a proper hoard or fence to be put up for the protection of passengers near such quarry or place, if it appears to him to be necessary in order to prevent imminent danger.

(*2*) Any expense incurred by the Chief Officer in taking action under this section shall be paid by such owner or the person responsible for such working or removal, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Provision as to dogs.

157. (*1*) The Chief Officer may by public notice require that every dog while in the streets and not being led by some person shall be muzzled in such a way as to allow the dog freely to breathe and to drink, while effectually preventing it from biting.

(*2*) Subject to the provisions of sub-section (*3*) the Chief Officer may take possession of any dog found wandering unmuzzled in any public place and may either detain such dog until its owner has claimed it, has provided a proper muzzle for it, and has paid all the expenses of its detention or cause it to be destroyed.

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "servant of the Crown" were substituted for the words "Officer of Government", *ibid.*

(*3*) When a dog which has been detained under the last preceding sub-section is wearing a collar with the owner's name and address thereon, such dog shall not be destroyed until a letter stating the fact that it has been so detained has been sent to the said address, and the dog has remained unclaimed for three clear days: provided that any dog which is found to be rabid may be destroyed at any time.

(*4*) Any unclaimed dog and any dog, the owner of which refuses to pay all the expenses of its detention may be sold or destroyed, after having been detained for the said period of 3 clear days.

(*5*) All expenses incurred by the Chief Officer under this section may be recovered from the owner of any dog which has been taken possession of or detained in the manner provided by Chapter VIII.

(*7*) *Powers for the prevention of nuisances.*

158. (*1*) Whoever deposits or causes or suffers any member of his family or household to deposit any dust, dirt, dung, ashes, refuse, or filth of any kind or any animal matter or any broken glass or earthenware or other rubbish or any other thing that is or may be a nuisance, in any street or in any arch under a street or in any drain beside a street or on any open space or on any quay, jetty or landing-place or on any part of the seashore on the bank of a tidal river, whether above or below high-water mark, or on the bank of any river, water-course or nullah, except at such places, in such manner and at such hours as shall be fixed by the Chief Officer, and whoever commits or suffers any member of his family or household to commit nuisance in any such place as aforesaid, shall be punished with fine which may extend to twenty-five rupees. Depositing dust, etc.; committing nuisance.

(*2*) Whoever throws or puts or causes or suffers any member of his family or household to throw or put any of the matters described in sub-section (*1*) except night-soil, or, except with the permission of the Chief Officer, any night-soil into any sewer, drain, culvert, tunnel, gutter or water-course, and whoever commits nuisance or suffers any member of his family or household to commit nuisance in any such sewer, drain, culvert, tunnel, gutter or water-course, or in such close proximity thereto as to pollute the same, shall be punished with fine which may extend to twenty-five rupees.

159. Whoever causes or allows the water of any sink or sewer or any other liquid or other matter which is or which is likely to become offensive, from any building or land under his control, to run, drain, or be thrown or put upon any street or open space, or to soak through any external wall, or causes or allows any offensive matter from any sewer or privy to run, drain or be thrown into a surface drain in any street, without the permission in writing of the Chief Officer or who fails to comply with any condition prescribed in such permission, shall be punished with fine which may extend to twenty-five rupees. Discharging sewage, etc.;

160. Whoever, being the owner or occupier of any building or land, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth or any noxious or offensive matter, in or upon such building or land, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth from and to cleanse and purify such receptacle, or keeps or allows to be kept in or upon Non-removal of filth, etc.

such building or land any animal in such a way as to cause a nuisance, shall be punished with fine which may extend to twenty-five rupees and with further fine which may extend to five rupees for every day on which such offence is continued, after the date of the first conviction for such offence.

Removal of night-soil.

161. (*1*) The Chief Officer may from time to time fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter.

(*2*) Whoever,—

(*a*) when the Chief Officer has fixed such hours and given public notice thereof by beat of drum, removes or causes to be removed along any street any such offensive matter at any time except within the hours so fixed, or

(*b*) at any time, whether such hours have been fixed by the Chief Officer, or not,

(*i*) uses for any such purpose any cart, carriage receptacle or vessel, not having a covering sufficient for preventing the escape of the contents thereof and of the stench therefrom, or

(*ii*) wilfully or negligently slops or spils any such offensive matter in the removal thereof, or

(*iii*) does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or

(*iv*) places or sets down in any public place any vessel containing such offensive matter, or

(*v*) drives or takes or causes to be driven or taken any cart, carriage, receptacle, or vessel used for any such purpose as aforesaid, through any street or by any route, other than such as shall from time to time be appointed for that purpose by the Chief Officer by public notice,

shall be punished with fine which may extend to twenty-five rupees.

Filthy buildings, etc.

162. (*1*) Whoever, being the owner or occupier of any building or land, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or in the opinion of the Chief Officer a nuisance to persons residing in the neighbourhood, or overgrown with prickly-pear or rank and noisome vegetation and who shall not, within a reasonable time after notice in writing by the Chief Officer to cleanse, clear or otherwise put such building or land in a proper state have complied with the requisition contained in such notice, shall be punished with fine which may extend to twenty-five rupees, and with further fine which may extend to five rupees for every day on which the failure to comply with the said notice is continued after the date of the first conviction for such offence.

Deserted and offensive buildings.

(*2*) Where any building, by reason of dilapidation, neglect, abandonment, disuse or disputed ownership, or of its remaining untenanted and thereby—

(*a*) becoming a resort of idle and disorderly persons, or of persons who have no ostensible means of subsistence, or who cannot give a satisfactory account of themselves, or

(*b*) coming into use for any insanitary or immoral purpose, or

(*c*) affording a shelter to snakes, rats or other dangerous or offensive animals,

is open to the objection that it is a nuisance, or so unwholesome or unsightly as to be a source of discomfort, inconvenience or annoyance to the neighbourhood or to persons passing by such building, the standing committee, if it considers such objection cannot under any other provision of this Act be otherwise removed, may, if there is any person known or resident within the municipal borough who claims to be the owner of such building, by written notice directed to such person, require

such person, or in any other case by written notice fixed on the door or any other conspicuous part of the building, require all persons claiming to be interested in such building, within a period which shall be specified in the notice and shall not be less than seven days from the date of such notice, to cause such building to be taken down and the materials thereof to be removed; in the event of non-compliance with such requirement, the standing committee, on the expiration of the period specified as aforesaid, may forthwith cause the building to be taken down and the materials to be removed, and may sell such materials and apply the proceeds to defray any expenses incurred by it in so doing; all such expenses not thereby defrayed shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

Buildings or rooms in buildings unfit for human habitation.

163. (*1*) If, for any reason, it shall appear to the standing committee that any building or any room in a building intended for or used as a dwelling is unfit for human habitation, the standing committee shall give to the owner or occupier of such building notice in writing, stating such reason, and signifying its intention to prohibit the further use of the building or room, as the case may be, as a dwelling, and shall in such notice call upon the owner or occupier aforesaid to state in writing any objection thereto within thirty days after the receipt of such notice; and if no objection is raised by such owner or occupier within such period as aforesaid, or if any objection which is raised by such owner or occupier within such period appears to the standing committee invalid or insufficient, the standing committee may by an order in writing prohibit the further use of such building or room as a dwelling.

(*2*) When any such prohibition as aforesaid has been made, the Chief Officer shall cause notice of such prohibition to be affixed to, and the letters "U. H. H." to be painted on, the door or some conspicuous part of such building or room as the case may be; and no owner or occupier of such building or room shall use or suffer the same to be used for human habitation until the standing committee certifies in writing that the building or room, as the case may be, has been rendered fit for human habitation.

Power to enter and inspect, etc. buildings.

164. It shall be lawful for the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officer authorised by the municipality in this behalf, at any time between sunrise and suset after due notice to enter into and inspect all buildings and lands, and by written notice to direct for sanitary reasons all or any part thereof to be forthwith internally and externally lime washed or otherwise cleansed.

Bathing places.

165. (*1*) The standing committee may set apart sufficient public places, or any part of the seashore, not being private property, for the purpose of being used as bathing places, and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in; and may also set apart tanks or reservoirs or runs of water for washing animls or clothes, or for any purpose connected with the health, cleanliness and comfort of the inhabitants, and may prohibit the use, for any purpose mentioned in this section, of any or all other public places within the municipal borough.

(*2*) Copis of all orders passed and notices issued by the standing committee and for the time being in force under this section, shall be kept at the municipal office and shall be open for inspection by the public at all reasonable time.

Regulation of washing of clothes by washermen.

[1][165A. (*1*) The standing committee may, by public notice, prohibit the washing of clothes by washermen in the exercise of their calling, except at such places as it shall appoint for this purpose ; and when any such prohibition has been made, no person who is, by calling, a washerman shall wash clothes at any place not appointed for this purpose by the standing committee, except for such person himself or for the owner or occupier of such place.

Washing place to be provided by the standing committee for washermen.

(*2*) The standing committee shall provide suitable places for the exercise by washermen of their calling and may require payment of such fees for the use of any such place as shall from time to time be determined by it with the approval of the municipality.

(*3*) The standing committee shall, before issuing any public notice under sub-section (*1*), publish in such manner as shall in its opinion be sufficient, for the information of persons likely to be affected thereby, a list of washing places proposed to be provided under sub-section (*2*), together with a notice specifying a date on or after which the list will be taken into consideration ; and shall, before finally fixing the said places, receive and consider any objection or suggestion in respect thereto which may be made in writing by any person before the date so specified.]

Fouling water.

166. Whoever, in disobedience of any order of the municipality under section 165, or of any by-law, bathes in any stream, pool, tank, reservoir, well, cistern, conduit or aqueduct belonging to the municipality, or washes or causes to be washed therein any animal or anything whatever, or throws, puts or casts or causes to enter therein any animal or anything, or causes or suffers to run, drain or be brought there into anything that is or may become a nuisance, or does anything whatsoever whereby any water therein shall be in any degree fouled or corrupted and whoever without permission of the Chief Officer steeps in any tank, stream, or ditch within or on the boundary of, the municipal borough any animal, vegetable or mineral matter likely to render the water of such tank, stream or ditch offensive or a nuisance shall be punished with fine which may extend to fifty rupees.

Abatement of nuisance from wells, etc.

167. (*1*) If, in the opinion of the Chief Officer—

(*a*) any pool, ditch, quarry, hole, excavation, tank, well, pond, drain, water-course, or any collection of water, or

(*b*) any cistern or other receptacle for water whether within or outside a building, or

(*c*) any land on which water accumulates and which is situate within a distance of one hundred yards from any building used as a dwelling house, is or is likely to become a breeding place of mosquitoes or in any other respect a nuisance, the Chief Officer may, by notice in writing, require the owner thereof to fill up, cover over or drain off the same in such manner and with such materials as the Chief Officer shall prescribe, or to take such order with the same for removing or abating the nuisance as the Chief Officer shall prescribe.

(*2*) (*a*) No new well, tank, pond, cistern or fountain shall be dug or constructed without the previous permission in writing of the Chief Officer.

(*b*) If any such work is begun or completed without such permission, the Chief Officer may either—

(*i*) by written notice require the owner or other person who has done such work to fill up or demolish such work in such manner as the Chief Officer shall prescribe ; or

[1] This section was inserted by Bom. 12 of 1931, s. 3 (*iv*).

(*ii*) grant written permission to retain such work; but such permission shall not exempt such owner from proceedings for contravening the provisions of clause (*a*) of this sub-section.

168. Whoever, except with the written permission of the Chief Officer, and in accordance with the conditions of such permission, stores or uses night-soil or other manure or substance emitting an offensive smell, shall be punished with fine which may extend to twenty-five rupees. Using offensive manure, etc.

169. Whoever tethers cattle or other animals, or causes or suffers them to be tethered by any member of his family or household, in any public street or place so as to obstruct or endanger the public traffic therein, or to cause a nuisance, or who causes or suffers such animals to stray about without a keeper shall be punished with fine which may extend to twenty-five rupees. Tethering cattle, etc.

170. Whoever feeds any animal which is kept for dairy purposes or is intended for human food on excrementitious matter, stable-refuse, filth or other offensive matter, or permits such animal to feed or to be fed on such matter, shall be punished with fine which may extend to fifty rupees. Feeding animals on filth.

171. (*1*) It shall be lawful for the municipality to direct by public notice that every furnace employed, or to be employed, in any works or buildings used for the purpose of any trade or manufacture whatsoever, within the limits of the municipal borough whether a steam engine be or be not used or employed therein, shall in all cases be constructed, supplemented or altered so as to consume or burn, or reduce as far as may be practicable, the smoke arising from such furnace. Consumption of smoke.

(*2*) If any person shall after such direction use, or permit to be used, any such furnace not so constructed, supplemented or altered, or shall so negligently use, or permit to be used, any such furnace that the smoke arising therefrom shall not be effectually consumed or burnt as far as may be practicable, such person being the owner or occupier of the said works or buildings or an agent or other person employed by such owner or occupier for managing the same, shall be punished with fine which may extend to fifty rupees and upon any subsequent conviction to five hundred rupees:

Provided that nothing in this section shall be held to apply to locomotive engines used for the purpose of traffic upon any railway or for the repair of roads.

(*8*) *Regulation of markets, sale of food, etc.*

172. (*1*) It shall be lawful for the municipality to direct that no place other than a municipal market or slaughter-house, shall be used for any of the purposes specified in sub-clauses (*i*) and (*ii*) of clause (*b*) of sub-section (*1*) of section 61 except under and in accordance with the conditions of a licence from the standing committee, which may at its discretion from time to time grant, suspend, withhold or withdraw such licences either generally or in individual cases. Licensing markets and slaughter-houses.

(*2*) Whoever uses or permits the use of any place contrary to such direction, or without the licence required as aforesaid, or in contravention of any of the conditions or during the suspension or after the withdrawal of such licence, shall be punished with fine which may extend to twenty-five rupees.

(*3*) Upon a conviction being obtained in respect of any place under sub-section (*2*) of this section, the magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed, and thereupon appoint persons or take other steps to prevent such place being so used; and every person who so uses or permits the use of a place after it has been so ordered to be closed, shall be

punished with fine which may extend to five rupees for each day during which he continues so to use, or permits such use of, the place after it has been so ordered to be closed.

(*4*) Nothing in this section or in sub-clause (*ii*) of clause (*b*) of sub-section (*1*) of section 61 shall apply to any liquor as defined in the Bombay Abkari Act, 1878.[1] Bom. V of 1878.

Opening, closing and letting of markets and slaughter-houses.

173. (*1*) The municipality may from time to time open or close any public market or slaughter-house. It may also either take stallage or other rents or fees for the use by any person of any such market or slaughter-house, or from time to time sell by public auction or otherwise the privilege of occupying any stall or space in or of otherwise using any such market or slaughter-house.

(*2*) Any person who, without the permission of or a licence from the municipality, shall sell or expose for sale any article in the said markets or use the said slaughter-houses, shall be punished with fine which may extend to twenty-five rupees.

Farming of market and slaughter-house rents.

174. It shall be lawful for the municipality to lease by public auction or private contract the collecting of any rent or fees which may be imposed under section 173 :

Provided that the lessee shall give security for the due fulfilment of the conditions of the lease.

Slaughter-houses, etc., beyond municipal limits.

175. It shall be lawful for a municipality with the sanction of the Commissioner or, if authorised by him, of the Collector to establish slaughter-houses or places for the disposal of carcasses of animals beyond the limits of the municipal borough. and all provisions of this Act and of by-laws in force thereunder relating to such slaughter-houses or places within the municipal borough, shall have full force in slaughter-houses or places established under this section, as if they were within the municipal borough.

Search for and inspection of unwholesome articles.

176. (*1*) The president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf—

(*a*) may at all reasonable times enter into any place for the purpose of inspecting and may inspect any animals, carcasses, meat, poultry, game, flesh, fish, fruit, vegetables, corn, bread, flour, milk, ghee, butter or other articles intended for human food or drink or for medicine, whether exposed or hawked about for sale or deposited in or brought to any place for the purpose of sale or of preparation for sale, or may enter into and inspect any place used as a slaughter-house, and may examine anything which may be therein ; and

(*b*) in case any such animals, carcasses, or other articles before mentioned appear to be diseased or unsound or unwholesome or unfit for human food or drink or medicine may seize the same.

Any article which is of a perishable nature may under the orders of the president, vice-president, chairman of the standing committee or Chief Officer if in his opinion it is diseased, unsound, unwholesome or unfit for human food, drink or medicine, forthwith be destroyed.

Every animal and every article which is not of a perishable nature, if seized as aforesaid, shall be taken before a Magistrate.

If it appear to the Magistrate upon sufficient evidence that any such animal or article is diseased or unsound or unwholesome or unfit for human food, drink or medicine, the owner or person in whose possession it was found, not being merely bailee or carrier thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply be punished with fine which may extend to one hundred rupees, and the Magistrate shall cause such animal or article to be destroyed or to be so disposed of as to prevent its being exposed for sale or use for human food or drink or medicine. XLV of 1860.

[1] See now the Bombay Prohibition Act, 1949 (Bom. 25 of 1949).

Adulterated articles for food or drink.

(2) In every municipal borough in which by virtue of a notification under sub-section (4) of section 1 of the [1]Bombay Prevention of Adulteration Act, 1899, the provisions of that Act are in force, and in respect of any food or drink to which the provisions of any section coming into force under sub-section (4) of section 1 of that Act are for the time being applicable in such borough by a notification, under sub-section (5) of section 1 of that Act, the following provisions shall be in force, namely :—

Bom. II of 1899.

If any article to which this sub-section is applicable as aforesaid is intended for food or drink, the president, vice-president, chairman of the standing committee, Chief Officer or any councillor or officers authorised by the municipality in this behalf in case such article appears not to be what it is represented to be, may seize the same, and if it appears to a Magistrate upon sufficient evidence that such article is not what it is represented to be, such Magistrate may order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for food or drink; and the owner thereof or the person in whose possession the same was found, not being merely carrier or bailee thereof, shall, if in such case the provisions of section 273 of the Indian Penal Code do not apply, be punished with fine which may extend to one hundred rupees.

XLV of 1860.

Explanation.—If such article having been exposed or stored in or brought to any place for sale as ghee contains any substance not exclusively derived from milk, it shall be deemed to be for the purposes of this sub-section, an article which is not what it is represented to be.

Protection to persons acting in good faith.

Where any article to which this sub-section is applicable, appears to the Magistrate not to be what it is represented to be, solely by reasons of the fact that there has been added to it some substance not injurious to health, no offence shall be deemed to have been committed by the owner of the article or the person in whose possession the same is found, if such owner or person proves to the satisfaction of the Magistrate—

(a) that such substance has been added to the article because the same is required for the production or preparation thereof, as an article of commerce, in a state fit for carriage or consumption, and not fraudulently to increase the bulk, weight, or measure of the article or conceal the inferior quality thereof, or

(b) that in the process of production, preparation or conveyance of such article, the extraneous substance has unavoidably become intermixed therewith, or

(c) that by a label distinctly and legibly written or printed on or with the said article or by other means of public description, he has given sufficient notice that such substance has been so added, or

(d) that—

(i) the said article was purchased by him with a written warranty that it was of a certain nature, substance and quality,

(ii) he had no reason to believe that it was not of such nature, substance and quality as aforesaid, and

(iii) it was not exposed, hawked about, or brought for sale by him otherwise than as an article of the nature, substance and quality specified in the written warranty, and was in the same state in which he purchased it:

Provided that this sub-section shall not apply to any borough to which the Bombay Prevention of Adulteration Act of 1925 has been extended.

Bom. V of 1925.

[1] On coming into operation of the Bombay Prevention of Adulteration Act, 1925 (Bom. 5 of 1925), in any local area, in respect of any article of food, Bom. 2 of 1899, except sec. 6, shall be deemed to have been repealed (*vide* Bom. 5 of 1925, sec. 20, Schedule B).

Application for summons to be refused if not applied for within reasonable time.

(*3*) In all prosecutions under this section the Magistrate shall refuse to issue a summons for the attendance of any person accused of an offence against its provisions unless the summons is applied for within a reasonable time from the alleged date of the offence of which such person is accused.

Powers of inspection of weights and measures, etc.

[1][**177.** The president, vice-president, chief officer or any councillor authorised by the municipality in this behalf may at all reasonable times enter into any place [2][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments.] Bom. XV of 1932.

(*9*) *Regulation of dairies and cattle sheds.*

Licensing of dairies.

178. (*1*) No person shall, for the purposes of trade, use or permit to be used any place for stabling milch cattle or for storing or selling milk or for making, storing or selling butter except under and in accordance with the terms of a licence from the standing committee.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one months notice to the licensee:

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

(*3*) Whoever so uses or permits to be used any place for any of the aforesaid purposes without, or in contravention of any of the conditions of, or after the withdrawal of, or during the suspension of, such licence, shall be punished with fine which may extend to fifty rupees and in the case of a continuing offence with additional fine which may extend to ten rupees for each day during which such offence is continued after the date of the conviction for the first such offence.

(*4*) Upon a conviction being obtained in respect of any place under sub-section (*3*) the Magistrate shall, on the application of the municipality but not otherwise, order such place to be closed, and thereupon, appoint persons or take other steps to prevent such place being so used.

(*10*) *Prevention of dangerous diseases.*

Powers to prevent disease which may at any time be conferred.

179. (*1*) [3][The Provincial Government] may at any time confer by notification on any municipality designated therein, all or any of the powers specified in sub-section (*2*) and such municipality shall, subject to all such limitations, restrictions and conditions, if any, as [3][the Provincial Government] in the same or in any subsequent notification may prescribe in such behalf, exercise within the municipal borough every power so conferred on it, for such period as may be specified in this behalf, in any such notification, or if no period is so specified, then, until the power is withdrawn.

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[1] This section was substituted for the original section by Bom. 15 of 1932, Second Schedule, Pt. I.

[2] These words, brackets and figures were inserted by Bom. 9 of 1935, s. 6 (*1*).

[3] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(2) The powers, all or any of which may be conferred under the preceding sub-section, are :

(a) power by orders, which may be either of special or general application, to direct that every medical practitioner, who knows or may have reason to believe that any person whom he has visited in his professional capacity in any dwelling not being a hospital, or that every manager of any factory or educational institution, or every head of a household, who knows or has reason to believe that any person who resides in any dwelling under his management or control, is suffering from any illness which may reasonably be supposed to be a dangerous disease, shall give information of the same with the least practicable delay to such person as may be designated by the municipality in that behalf;

(b) power to direct or authorize the inspection, without notice, or with such notice as to the person directed or authorised to inspect appears reasonable of any place in which any dangerous disease is reported or suspected to exist and the taking of measures to prevent the spread of the disease beyond such place;

(c) power to prohibit the removal of water for the purpose of drinking from any well, tank or other place which may appear to the municipality, on the advice of a medical officer, likely to endanger or cause the spread of any dangerous disease;

(d) power to direct or cause the removal on a certificate signed by any duly qualified medical practitioner authorised by the municipality in this behalf, of any person who is without proper lodging or accommodation, or who is lodged in a room or set of appartments occupied by more than one family, or in a place where his presence may be a danger to the neighbourhood, and who is suffering from a dangerous disease, to any hospital or place at which persons suffering from the said disease are received for medical treatment; and to prohibit the person so removed from leaving such hospital or place without the permission of the municipality;

(e) power to require by written notice the owner or occupier of any building or part of a building, or a person owning or in charge of any article therein, to cleanse or disinfect such building or part thereof or article, either at his own expense, or in case of poverty, or for other cause which the municipality in the circumstances of the case considers reasonable, at the expense of the municipality;

(f) power to provide the means and to prescribe places for disinfecting or washing, bedding or other articles which have been exposed to infection from any dangerous disease, and to direct the destruction thereof;

(g) power—

(i) to provide and maintain suitable conveyance for the free carriage of persons suffering from any dangerous disease, and

(ii) when such provision is made to prohibit the conveyance of such person in all or any public conveyances, and

(iii) to direct that any conveyances that may at any time be used for conveying any such persons shall be immediately disinfected;

(h) power to prohibit—

(i) any person suffering from any dangerous disease from wilfully exposing himself, without proper precautions against spreading the said disease, in any street or in any school or factory, or in any inn, dharmshala, theatre, market or other place of public resort, or

(ii) any person in charge of any person so suffering from so exposing such sufferer;

(*i*) power to prohibit any person from removing to another place, or transferring to another person, except for the purpose of disinfection, any article which the person prohibited knows or has reason to believe has been exposed to infection of any kind whatsoever from any dangerous disease ;

(*j*) power to prohibit the letting of or the providing of accommodation in any hotel, inn, dharmshala, or serai, in which a person has, or in which there is reason to believe that a person has been suffering from a dangerous disease, unless and until the person desiring so to let or provide accommodation shall have had the building, or part thereof, and any article therein likely to retain infection, disinfected to the satisfaction of the municipality, or of such officer as the municipality may appoint in this behalf ;

(*k*) power, with the previous permission in each case of a Magistrate exercising not less than second class powers, to destroy any insanitary huts or sheds in which there is reason to believe that persons have been suffering from a dangerous disease.

(*3*) The municipality may, in its discretion, give compensation to any person who sustains substantial loss by the destruction of any property under this section, but, except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*4*) Any person who in a municipal borough disobeys any order which is for the time being in force therein, and which has been passed by the municipality in exercise of any power conferred on such municipality under this section, or obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order, shall be punished with fine which may extend to fifty rupees.

Duties of municipality on threatened or actual outbreak of dangerous disease.

180. (*1*) In the event of the municipal borough or any part thereof being at any time threatened or visited with an outbreak of any dangerous disease, the municipality shall take all such measures as the [1][Commissioner] may deem necessary for the purpose of preventing, meeting, mitigating or supressing such outbreak.

(*2*) In such event as aforesaid the [1][Commissioner] may by special notification declaring that such municipal borough is threatened or visited with an outbreak of a dangerous disease, confer on the municipality all or any of the additional powers specified in the following sub-section, and such municipality shall, subject to such limitations, restrictions and conditions, if any, as the [1][Commissioner] in the same or in any subsequent notification may prescribe, exercise every such power so conferred on it until the same is withdrawn by means of a like notification.

(*3*) The powers, all or any of which may be conferred under the preceding sub-section, are—

(*a*) power to order, subject to the conditions—

(*i*) that the permission of a Magistrate exercising not less than second class powers shall be in each case first obtained, and

(*ii*) that accommodation for all persons to whom the order refers is available, or shall be provided, elsewhere,

the evacuation of an infected building used as a dwelling or of any part thereof, or of any building so used adjacent to such building by the person or persons residing, whether habitually or temporarily, therein ;

[1] The word "Commissioner" was substituted for the word "Government" by Bom. 19 of 1935, s. 11.

(*b*) power to direct the examination by a medical officer of persons and if necessary, the disinfection of the clothing, bedding, or other articles suspected of being infected, belonging to persons either arriving from places outside the municipal borough, or residing in any building adjacent to any infected building, and to direct that any such person shall give his address and present himself daily for medical examination at such times and places as may be prescribed, for a period not exceeding ten days;

(*c*) power to prohibit either generally or by special order in any individual case, assemblages consisting of any number of persons exceeding fifty, in any place whether public or private, or in any circumstances, or for any purpose, if in the opinion, recorded in writing, of the Civil Surgeon of the district or other medical officer appointed by [1][the Provincial Government] in this behalf, such assemblages in such place or in such circumstances or for such purpose, would be likely to become a means of spreading the disease or of rendering it more virulent.

(*4*) The municipality may in its discretion give compensation to any person who sustains substantial loss by the destruction of any property under this section; but except as allowed by the municipality, no claim for compensation shall lie for any loss or damage caused by any exercise of the powers specified therein.

(*5*) If in any municipal borough in which a notification under sub-section (*2*) is for the time being in force, any person—

(*a*) knowingly disobeys any order which for the time being is in force in such borough and which has been passed by the municipality in exercise of any power conferred on it under section 179 or under this section, or

(*b*) obstructs any officer of the municipality or other person acting under the authority of the municipality in carrying out executively any such order,

such person shall be punished with fine which may extend to one thousand rupees.

181. (*1*) [2][[1][The Provincial Government], in the case of any power conferred under section 179, and the Commissioner, in the case of any power conferred under section 180 may at any time— **Withdrawal and modification of powers and orders.**

(*a*) withdraw any such power;]

(*b*) cancel or modify any limitation, restriction or condition prescribed in respect of any such power; or

(*c*) cancel any order passed by a municipality in exercise of any such power.

(*2*) Every order passed by a municipality in exercise of any such power as aforesaid shall, on the withdrawal of such power, cease to be in force in the municipal borough.

182. If in any municipal borough any infectious disease amongst cattle, sheep or goats breaks out or if the introduction of any such disease appears to be likely, the municipality shall take all such measures as it may deem necessary for the purpose of preventing, meeting, mitigating or suppressing the disease or the outbreak or introduction thereof. **Duties of municipality in respect of diseases among cattle, sheep or goats.**

183. (*1*) Whenever the standing committee considers the interior of a building is so overcrowded as to be or to be likely to become dangerous or prejudicial to the health of the inhabitants of that or of any neighbouring building, the standing committee may cause proceedings to be taken before a Magistrate of the first class for the purposes of obtaining an order to prevent such overcrowding. **Proceedings to abate the overcrowding of the interiors of buildings.**

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, letter, figures and brackets were substituted for the original words, letter, brackets and figures by Bom. 19 of 1935, s. 12.

(*2*) Such Magistrate may, on the production of a certificate by a medical officer stating his opinion that the overcrowding complained of is likely to cause disease or risk of disease and after such further inquiry, if any, as may appear to such Magistrate necessary, requires the owner of the building within a reasonable time, not being more than six weeks or less than ten days, to abate the number of lodgers, tenants or other inmates of the said building to such extent as he shall deem necessary to prescribe, or may pass such other order as he shall deem just and proper.

(*3*) If the owner of the said building shall have sublet the same, the landlord of the lodgers, tenants or other actual inmates of the same shall for the purposes of this section be deemed to be the owner of the building.

(*4*) It shall be incumbent on any owner, to whom a requisition is issued under sub-section (*2*), forthwith to give to so many of the lodgers, tenants or other actual inmates of the said building as may be necessary to fulfil the conditions prescribed in such requisition written notice to vacate the said building, within the period specified in such requisition, and any such lodgers, tenants or inmates receiving notice shall be bound to comply therewith.

(*5*) Any owner who after the date specified in any requisition issued under sub-section (*2*) permits the overcrowding of any building in contravention of such requisition, and any person who omits to vacate any such building in accordance with notice given to him under sub-section (*4*), shall be punished with fine which may extend to ten rupees for each day subsequent to the date specified in such requisition during which such overcrowding or such omission to vacate, continues.

Special powers which may be conferred by the Provincial Government in respect of overcrowded area.

184. (*1*) If [1][the Provincial Government] is of opinion that risk of disease has arisen or is likely to arise either to any occupier in, or to any inhabitant in the neighbourhood of, any area by reason of any of the following defects, namely—

(*a*) the manner in which either buildings or blocks of buildings, already existing or projected therein, are, or are likely to become, crowded together, or

(*b*) the impracticability of cleansing any such buildings or blocks of buildings, already existing or projected, or

(*c*) the want of drainage or scavenging, or the difficulty of arranging therein for the drainage or scavenging of any such buildings or blocks or area as aforesaid, or

(*d*) the narrowness, closeness, bad arrangement or bad condition of the streets or buildings or groups of buildings,

it may by notification confer on the municipality to which such area is subject, all or any of the powers specified in sub-section (*2*), and may, if it deems necessary, at any time make rules prescribing any limitations, restrictions, modifications, conditions or regulations, subject to which the municipality shall exercise within that area all powers so conferred, unless and until those powers are withdrawn by a subsequent notification of [1][the Provincial Government].

(*2*) The powers all or any of which may be conferred on a municipality under sub-section (*1*) are as follows:

(*a*) power when any building or block already existing or in course of erection, by reason of any defect specified in sub-section (*1*), has given or is in the opinion of the municipality likely to give rise to such risk as aforesaid, to require by a written notice, to be fixed upon some conspicuous part of such building or block and addressed, as the municipality deems fit, either to the owners thereof or to

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

the owners of the land on which such building or block is erected or is in course of erection that the persons so addressed shall, within such reasonable time as shall be specified in the notice, either pull down or remove such building or block, or execute such works or take such action in connection therewith as the municipality deems necessary to prevent all such risk of disease;

(*b*) power by municipal or other agency to pull down or remove such building or block, or to execute such works or take such action as aforesaid, if the persons addressed in the said notice neglect so to do within the time specified therein;

(*c*) power, subject to a right of appeal to the Commissioner whose decision shall be conclusive, to prohibit, by written notice addressed to the owners and occupiers of any site or space hereinafter described and by general notice published in the manner provided in sub-section (*3*) of section 192, the erection of any building or of any building exceeding such dimensions as may be specified in such notice :—

(*i*) on the site of any building which has, in whole or in part, under the provisions of this section, been pulled down, or

(*ii*) on any space not occupied by buildings, whether such space is private property or not and whether it is enclosed or not, if the municipality considers that in order to prevent such risk as aforesaid, such site or space should not be built upon in whole or in part; and either to acquire such site or space or to prescribe such conditions as may be deemed necessary as to the use which the owner or occupier may make or permit to be made thereof:

Provided that in every case compensation, the amount of which shall in case of dispute be ascertained and determined in the manner provided in section 198, shall be paid to any person whose rights are affected by such prohibition.

(*3*) When, in pursuance of any notice under sub-section (*2*), any building has been pulled down, the municipality shall, unless such building has been erected contrary to any provision of this Act or of any by-law in force thereunder, pay to such owner or occupier as may have sustained damage thereby, reasonable compensation, the amount of which shall in case of dispute be ascertained or determined in the manner provided in section 198.

(*4*) [1][The Provincial Government] may prescribe by rule a fine not exceeding five hundred rupees, for every breach, and a further fine not exceeding twenty-rupees a day for every continuing breach, of any order made or conditions imposed by the municipality in exercise of any powers conferred upon it under this section.

Closing of places for disposal of the dead.

185. (*1*) Where the municipality is of opinion that any place used for the disposal of the dead is in such a state as to be, or to be likely to become, injurious to health, it may submit its opinion with the reasons therefor to the Commissioner and the Commissioner thereupon, after such further inquiry, if any, as he shall deem fit to cause to be made, may by notification direct that such place shall cease to be so used from such date as may be specified in that behalf in the said notification.

(*2*) A copy of the said notification together with a translation thereof in the vernacular of the district shall be published in the local newspapers, if any, and shall be posted up at the municipal office and in one or more conspicuous spots on or near the place to which the same relates.

(*3*) Any person who buries or otherwise disposes of any corpse in any such place, after the date specified in the said notification for closure of the same, shall be punished with fine which may extend to one hundred rupees.

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(11) Nuisances from certain trades and occupations.

Regulation of certain trades.

186. (*1*) If it be shown to the satisfaction of the standing committee that any building or place used or intended by any person to be used—

(*a*) for boiling or storing offal, blood, bones or rags,
(*b*) for salting, curing or storing fish,
(*c*) for storing hides, horns or skins,
(*d*) for tanning,
(*e*) for the manufacture of leather or leather goods,
(*f*) for dyeing,
(*g*) for melting tallow or sulphur,
(*h*) for washing or drying wool or hair,
(*i*) as a brick pottery or lime kiln,
(*j*) for soap making,
(*k*) for oil-boiling or oil extracting,
(*l*) as a manufactory of sago,
(*m*) as a distillery,
(*n*) for storing hay, straw, fodder, wood, coal or other combustible material,
(*o*) as a manufactory of snuff,
(*p*) for the manufacture or sale of sweetmeats,
(*q*) as a factory, workshop or place of business in which animals are employed or intended to be employed for doing work or in which steam, water or any mechanical power is used or intended to be used,
(*r*) as a manufactory or place of business of any other kind, from which offensive or unwholesome smells arise, or which may involve risk of fire,
[1][(*s*) as a hair dressing saloon or a barber's shop or a hamamkhana,]

is or is likely to become by reason of such use and of its situation a nuisance to neighbourhood or is so used or is so situated as to be likely to be dangerous to life, health or property, the standing committee may by written notice require the owner or occupier—

(*i*) at once to discontinue the use of or at once to desist from carrying out or allowing to be carried out the intention so to use, such building or place or
(*ii*) to use it in such manner or after such structural alterations as the standing committee in such notice prescribes so that it may not become. or may be no longer, a nuisance or dangerous.

Explanation 1.—For the purpose of clauses (*q*) and (*r*) nuisance shall include any contamination of the atmosphere whereby a deposit of soot is caused or any mechanical noise.

Explanation 2.—Nothing in clauses (*q*) and (*r*) shall be deemed to affect any provision of the Indian Boilers Act, 1923, or shall authorize any order relating to the fixing or fencing of any engine, mill-gearing, hoist or other machinery in any factory to which the provisions of the [2]Indian Factories Act, 1911, are applicable. V of 1923. XII of 1911.

Liability to penalty after notice.

(*2*) Whoever after notice has been given under sub-section (*1*), uses any building or place or permits it to be used in such a manner as to be a nuisance to the neighbourhood or dangerous to life, health, or property, shall be punished with fine which may extend to two hundred rupees, and with further fine which may extend to forty rupees for every day on which such use or permission of use is continued after the date of the first conviction.

[1] Clause (*s*) was inserted by Bom. 19 of 1935, s. 13.

[2] See now the Factories Act, 1948, (63 of 1948).

(*3*) Upon a conviction being obtained under this section the Magistrate shall, on the application of the standing committee but not otherwise, order such place to be closed and thereupon appoint persons or take other steps to prevent such place being used for any purpose mentioned in sub-section (*1*).

(*4*) whoever uses without a licence or during the suspension or after the withdrawal of a licence, any place for any purpose mentioned in sub-section (*1*) in any municipal borough in which by-laws are for the time being in force prescribing the conditions on or subject to which, the circumstances in which, and the areas or localities in respect of which, licences for such use may be granted, refused, suspended or withdrawn, shall be punished with fine which may extend to fifty rupees and with further fine which may extend to ten rupees for every day on which such use is continued after the date of first conviction. Penalty for unlicensed places in district in which by-laws under section 61 (*1*) (*b*) (iii) are in force.

187. (*1*) No person shall use or employ in any factory or any other place any whistle or trumpet operated by steam or mechanical means for the purpose of summoning or dismissing workmen or persons employed except under and in accordance with the conditions of a licence from the standing committee. Prohibition of use of steam whistles, etc.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any such notice.

(*3*) Whoever uses or employs any such whistle or trumpet as aforesaid without or in contravention of any of the conditions of or after the withdrawal of such licence, shall be punished with fine which may extend to fifty rupees.

[1]**188.** Whoever in any street or public place within the limits of a municipal borough loiters for the purposes of prostitution or importunes any person to the commission of sexual immorality, shall be punished with fine which may extend to fifty rupees : Loitering or importuning for purposes of prostitution.

Provided that no Court shall take cognizance of an offence under this section except on the complaint of the person importuned, or of a Police Officer not below the rank of an officer in charge of a police station and specially authorized in this behalf by the District Magistrate or by the municipality.

189. In any municipal borough— Brothels.

(*a*) any part of which is within three miles of a cantonment, or

(*b*) to which on the application of the municipality [2][the Provincial Government] may by notification have declared this section to apply,

any Magistrate of the first class, on receiving information that a house within the limits of such borough is used as a brothel, may summon the owner or occupier of such house and on being satisfied that the house is so used, may order the owner or occupier to discontinue such use of it ; and, if such owner or occupier shall fail to comply with such order within five days, may impose upon him a fine not exceeding twenty-five rupees for every day thereafter that the house shall be so used :

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[1] In any municipal borough to which section 3 of the Bombay Prevention of Prostitution Act, 1923 (Bom. 11 of 1923), may be extended under section 1 of the said Act, section 188 of Bom. 18 of 1925 shall be deemed to have been repealed from the date of such extension (*vide* Bom. 11 of 1923, section 13 (*2*)).

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Provided that action under this section shall be taken only—

(*a*) with the sanction or by the order of the District Magistrate, or

(*b*) on the complaint of three or more inhabitants of the municipal borough residing in the vicinity of the house to which the complaint refers.

(12) Regulation of pilgrim's lodging houses.

Pilgrims' lodging houses.

190. (*1*) No person shall, in any municipal borough which [1][the Provincial Government] shall have declared by notification to be a pilgrim centre for the purposes of this section and of clause (*d*) of sub-section (*1*) of section 61, use or permit to be used any place or building for the purpose of lodging pilgrims except under and in accordance with the conditions of a licence from the standing committee.

(*2*) The standing committee may grant such licence subject to such conditions as it may deem fit and may at any time withdraw such licence on giving one month's notice to the licensee :

Provided that where the licensee has contravened any of the conditions of the licence, the licence may be withdrawn without any further notice.

(*3*) Whoever lodges or permits to be lodged any pilgrim in any place or building without or in contravention of any of the conditions of or after the withdrawal of or during the suspension of such licence, shall be punished with a fine not exceeding five rupees for each such pilgrim for each day or part of a day during which such pilgrim has been so lodged.

(13) Powers in case of fire.

Police officers and municipal officers to aid fire-brigade.

191. It shall be the duty of all police officers and of all municipal officers and servants to aid a fire-brigade in the execution of its duties. Such officers and servants may close any street in or near which a fire is burning and remove any persons who interfere by their presence with the operations of the fire-brigade.

(14) Service of notices, penalties on non-compliance therewith and execution of works on default.

Service of notices, etc., addressed to individuals.

192. (*1*) The service of every notice and the presentation of every bill under this Act on any person or to any person to whom it is by name addressed, shall, in all cases not otherwise specially provided for in this Act, be effected by a municipal officer or servant or other person authorised by the Chief Officer in this behalf—

(*a*) by giving or tendering the notice or bill to the person to whom it is addressed ; or

(*b*) if such person is not found, by leaving the notice or bill at his last known place of abode, if within the municipal borough, or by giving or tendering, the notice or bill to some adult male member or servant of his family ; or

(*c*) if such person does not reside within the municipal borough, and his address elsewhere is known to the President or other person directing the issue or the notice or bill, then by forwarding the notice or bill by registered post under cover bearing the said address ; or

(*d*) if none of the means aforesaid be available, then by causing the bill or notice to be affixed on some conspicuous part of the building or land, if any, to which the bill or notice relates.

[1] The words "The Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

(2) When any notice under this Act is required or permitted by or under this Act to be served upon an owner or occupier of any building or land, it shall not be necessary to name the owner or occupier therein, and the service thereof, in cases not otherwise specially provided for in this Act shall be effected either— Service of notices on owners or occupiers of buildings and land.

(a) by giving or tendering the notice to the owner or occupier or if there be more owners or occupiers than one, to any one of them ; or

(b) if no such owner or occupier be found, then by giving or tendering the notice to some male adult member or servant of the family of any such owner or occupier as aforesaid ; or

(c) if none of the means aforesaid be available, then by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

(3) Every notice which this Act requires or empowers a municipality or any municipal authority or officer to give or to serve either as a public notice or generally or by provisions which do not expressly require notice to be given to individuals therein specified shall be deemed to have been sufficiently given or served if a copy thereof is put up in such conspicuous part of the municipal office during such period and in such other public buildings and places, or is published in such local papers or in such other manner, as the municipality in bye-laws in this behalf prescribes. Public and general notices how to be published.

(4) No notice or bill shall be invalid for defect of form. Defective form not to invalidate notice.

(5) (a) Where any notice under this Chapter requires any act to be done for which no time is fixed by this Act, the notice shall fix a reasonable time for doing the same. Execution of acts required to be done by any notice.

(b) In the event of non-compliance with the terms of the notice it shall be lawful for the Chief Officer to take such action or such steps as may be necessary for the completion of the act thereby required to be done, and all the expenses therein incurred by the municipality shall be paid by the person or persons upon whom the notice was served, and shall be recoverable in the manner provided in section 199.

193. Whoever disobeys or fails to comply with any lawful direction given by any written notice issued by or on behalf of a municipality under any power conferred by this Chapter, or fails to comply with the conditions subject to which any permission was given to him by or on behalf of a municipality under any power so conferred, shall, if the disobedience or failure is not an offence punishable under any other section, be punished with fine which may extend to fifty rupees, and with further fine which may extend to five rupees for every day on which the said disobedience or failure continues after the date of the first conviction : Punishment for disobedience of orders and notices not punishable under any other section

Provided that when the notice fixes a time within which a certain act is to be done, and no time is specified in this Act, it shall rest with the Magistrate to determine whether the time so fixed was reasonable time within the meaning of this Act.

[1][**193A.** Whoever does or omits to be do an act in contravention of any provisions of this Act or the bye-laws made thereunder or the conditions of a licence or permission granted by a municipality under the said provisions or bye-laws shall if such act or omission is not an offence under the said provisions or bye-laws, be punished with fine which may extend to fifty rupees and with further fine which may extend to five rupees for every day on which such act or omission continues after the date of the first conviction.] General penalty.

[1] Section 193A was inserted by Bom. 19 of 1935, s. 14.

Municipality in default of owner or occupier may execute works and recover expenses.

194. (*1*) Where under the provisions of this Act any work is required to be executed by the owner or occupier of any building or land and default is made in the execution of such work, the municipality, whether any penalty is, or is not provided for such default, may cause such work to be executed ; and the expenses thereby incurred shall, unless otherwise expressly provided in this Act, be paid to it by the person by whom such work ought to have been executed, and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII either in one sum or by instalments as to the municipality may seem fit :

Provided that—

Agreement for construction of drainage and water connections.

(*a*) where any drainage scheme or water-works scheme has been commenced by any municipality, it shall be lawful for the municipality, without prejudice to its powers under section 129 or any other provision of this Act, to make a special agreement with the owner of any building or land as to the manner in which the drainage or water-connection thereof shall be carried out, and the pecuniary or other assistance, if any, which the municipality shall render : and any payment agreed upon by the owner shall be recovered in accordance with the terms of such agreement or in default, in the manner described in sub-sections (*2*) and (*3*) ;

Improvement expenses.

(*b*) where an order or requisition has been passed under sub-section (*1*) of section 115, sub-section (*1*) of section 117, sub-section (*2*) or (*8*) of section 123 or under section 127, 129, 134 or 135 or where permission has been given under section 131, or where an arrangement has been made under proviso (*a*) of this sub-section, the municipality may, without prejudice to any other powers under this Act, if it think fit, declare any expenses incurred by the municipality in the execution of such order or in the carrying out of such requisition, permission or arrangement to be improvement expenses. Improvement expenses shall be a charge upon the premises or land, and shall be levied in such instalments as the municipality may decide, including interest at the rate of seven and a half per cent. per annum, and shall be recoverable in the manner described in sub-sections (*2*) and (*3*).

Power to levy charges on occupier who may deduct the same from his rent.

(*2*) If the defaulter be the owner of the building or land the municipality may, by way of additional remedy, whether a suit or proceeding has been brought or taken against such owner or not, require, subject to the provisions of sub-section (*3*), the payment of all or any part of the expenses payable by the owner for the time being from the person who then, or any time thereafter, occupies the building or land under such owner ; and in default of payment thereof by such occupier on demand, the same may be levied from such occupier, and every amount so leviable shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII ; every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as has been so paid by or recovered from such occupier in respect of any such expenses.

Occupiers not to be liable for more than the amount of rent due.

(*3*) No occupier of any building or land shall be liable to pay more money in respect of any expenses charged by this Act on the owner thereof, than the amount of rent which is due from such occupier for the building or land in respect of which such expenses are payable, at the time of the demand made upon him or which at any time after such demand and notice not to pay rent to the landlord, has accrued and become payable by such occupier, unless he neglect or refuse, upon application made to him for that purpose by the municipality, truly to disclose the amount of his rent, and the name and the address of the person to whom such rent is payable ; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand, or which has since accrued, shall be upon such occupier :

Provided that nothing herein contained shall be taken to affect any special contract made between any such occupier and the owner respecting the payment of any such expenses as aforesaid.

195. Where default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the municipality cause such work to be executed and the expense thereof shall be paid to him by the owner, or the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Occupier in default of owner, may execute works and deduct expenses from his rent.

196. If the occupier of any building or land prevent the owner thereof from carrying into effect in respect of such building or land, any of the provisions of this Act, after notice of his intention so to carry them into effect has been given by the owner to such occupier, any Magistrate upon proof thereof, and upon application of the owner, may make an order in writing requiring such occupier to permit the owner to execute all such works, with respect to such building or land, as may be necessary for carrying into effect the provisions of this Act, and may also, if he thinks fit, order the occupier to pay to the owner the costs relating to such application or order; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute, any such work, such occupier shall for every day during which he so continues to refuse be punished with fine which extend to fifty rupees and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Proceedings if any occupier opposes the execution of the Act.

(15) Miscellaneous.

197. It shall be lawful for the president, vice-president, Chief Officer or any officer authorised by the Chief Officer for such purpose, to enter for any purpose of this Act, between sunrise and sunset, with such assistants as he may deem necessary, into and upon any building or land:

Entry for purposes of the Act.

Provided that, except when herein otherwise provided, no building or land which may be occupied at the time shall be entered unless with the consent of the occupier thereof, without twenty-four hours' written notice thereof having been given to the said occupier:

Provided also that in the case of buildings used as human dwellings, due regard shall be paid to the social and religious customs of the occupiers.

198. *(1)* If an agreement is not arrived at with respect to any compensation or damages which are by this Act directed to be paid, the amount and if necessary the apportionment of the same shall be ascertained and determined by a panchayat of five persons, of whom two shall be appointed by the municipality, two by the party to or from whom such compensation or damages may be payable or recoverable, and one, who shall be sir-panch, shall be selected by the members already appointed as above.

Arbitration in cases of compensation, etc.

(2) If either party or both parties fail to appoint members, or if the members fail to select a sir-panch within one month from the date of either party receiving written notice from the other of claim to such compensation or damages, such members as may be necessary to constitute the panchayat shall be appointed, at the instance of either party, by the District Judge.

(*3*) In the event of the panchayat not giving a decision within one month from the date of the selection of the sir-panch or of the appointment by the District Court of such members as may be necessary to constitute the panchayat, the matter shall, on application by either party, be determined by the District Court which shall, in cases in which the compensation is claimed in respect of land, follow as far as may be the procedure provided by the [1]Land Acquisition Act, 1894, for proceedings in matters referred for the determination of the Court: I of 1894.

Provided that -

(*a*) no application to the Collector for a reference shall be necessary and

(*b*) the Court shall have full power to give and apportion the costs of all proceedings in any manner it thinks fit.

(*4*) In any case where the compensation is claimed in respect of land and the panchayat has given a decision, either party if dissatisfied with the decision, may within a month of the date thereof apply to the District Court and the matter shall be determined by the District Court in accordance with the provisions of sub-section (*3*).

(*5*) In any case where the compensation is claimed in respect of any land or building the municipality may after the award has been made by the panchayat or the District Court, as the case may be, take possession of the land or building, after paying the amount of the compensation determined by the panchayat or the District Court to the party to whom such compensation may be payable. If such party refuses to accept such compensation, or if there is no person competent to alienate the land or building, or if there is any dispute as to the title to the compensation or as to the apportionment of it, the municipality shall deposit the amount of the compensation in the District Court.

Costs or expenses how determined and recovered.

199. If a dispute arises with respect to any costs or expenses which are by this Act directed to be paid, the amount, and if necessary the apportionment of the same shall, save where it is otherwise expressly provided in this Act, be ascertained and determined by the standing committee and shall be recoverable in the same manner as an amount claimed on account of any tax recoverable under Chapter VIII.

CHAPTER X.

PROSECUTIONS, SUITS AND POWERS OF POLICE.

Municipality may prosecute.

200. (*1*) The standing committee and, subject to the provisions of sub section (*3*) the Chief Officer may direct any prosecution for any public nuisance whatever and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act or of any rule or by-law thereunder and may order the expenses of such prosecutions or other proceedings to be paid out of the municipal fund:

Provided that no prosecution for an offence under this Act or by laws framed thereunder shall be instituted except within six months next after the commission of such offence.

Jurisdiction of Magistrate; recovery of compensation and expenses.

(*2*) Any prosecution under this Act or under any rule or by-law thereunder may, save as therein otherwise provided, be instituted before any Magistrate; and every fine or penalty imposed under or by virtue of this Act or any rule or by law thereunder, and any compensation, expenses, charges or damages for the recovery of which no special provision is otherwise made in this Act may be recovered on application

[1] Central Acts.

to any Magistrate by the distress and sale of any moveable property within the limits of his jurisdiction belonging to the person from whom the money is claimable.

(3) The Chief Officer shall not, except with the previous approval of the standing committee, direct a prosecution or order proceedings to be taken for the punishment of any person offending against the provisions of the following sections or sub-sections, namely :—

section 55 ; sub section (4) of section 118 ; section 171 ; and

sub-section (4) of section 117 ; sub-section (4) of section 184.

Limitation of suits, etc.

201. No distress levied or attachment made by virtue of this Act shall be deemed unlawful nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in any summons, conviction or warrant of distress or attachment or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him, but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Distress lawful though defective in form.

202. If through any act, neglect or default, on account whereof any person shall have incurred any penalty imposed by or under this Act, any damage to the property of a municipality shall have been committed by such person, he shall be liable to make good such damage as well as to pay such penalty and the amount of damage shall, in case of dispute, be determined by the Magistrate by whom the person incurring such penalty is convicted ; and on non-payment of such damage on demand the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Damage to municipal property how made good.

203. In lieu of any process of recovery allowed by or under this Act or in case of failure to realise by such process the whole or any part of any amount recoverable under the provisions of Chapter VIII, or of any compensation, expenses, charges or damages payable under this Act, it shall be lawful for a municipality to sue in any Court of competent jurisdiction the person liable to pay the same.

Alternative procedure by suit.

204. (1) A municipality may sue in any Court of competent jurisdiction any person who may have in any way caused or may appear likely to cause any injury to any property, rights or privileges of the municipality.

Power to sue, compromise and pay compensation.

(2) A municipality may compound or compromise in respect of any suit instituted by or against it, or, in respect of any claim or demand arising out of any contract entered into by it under this Act, for such sum of money or other compensation as it shall deem sufficient.

Provided that, if any sanction in the making of any contract is required by this Act, the like previous sanction shall be obtained for compounding or compromising any claim or demand arising out of such contract.

(3) A municipality may make compensation out of the municipal fund to any person sustaining any damage by reason of the exercise of any of the powers vested in it, its committees, officers and servants under this Act.

(4) The municipal fund shall be liable to pay the expenses of any civil proceeding prosecuted or defended on its behalf.

205. For the purpose of the recovery of any amount due on account of rent from any person to a municipality in respect of any land vested in or otherwise held by such municipality, the municipality shall be deemed to be a superior holder and every such person an inferior holder of such land within the meaning of sections 86

Assistance for the recovery of rent on land.

and 87 of the Bombay Land Revenue Code, 1879; and the municipality as superior holder shall be entitled, for the recovery of every such amount, to all the assistance to which under the said sections a superior holder is entitled for the recovery of rent or land revenue payable to him by an inferior holder. Bom. V of 1879.

Limitation of suits, etc.

206. No person shall commence any suit against any municipality or against any officer or servant of a municipality or any person acting under the orders of a municipality for anything done or purporting to have been done in pursuance of this Act, without giving to such municipality, officer, servant or person two months previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of;

and in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered, and shall pay all costs incurred by the defendant after such tender.

Powers of police officers.

207. (*1*) Any Police-officer may arrest any person committing in his view any offence against any of the provisions of this Act or of any by-law thereunder, if the name and address of such person is unknown to him, and if he declines to give his name and address or if the Police-officer has reason to doubt the accuracy of such name and address if given; and such person may be detained at the station house until his name and address has been correctly ascertained:

Provided that no person arrested shall be detained without the order of a Magistrate longer than shall be necessary for bringing him before a Magistrate, or than twenty-four hours at the utmost.

(*2*) It shall also be the duty of all Police-officers to give immediate information to the municipality of the commission of any offence against the provisions of this Act or of any by-law thereunder and to assist all municipal officers and servants in the exercise of their lawful authority.

Accounts to be kept.

208. Accounts of the receipts and expenditure of every municipality shall be kept in accordance with the Municipal Account Code subject to such modifications as [the Provincial Government] may in each case direct.

CHAPTER XI.

MUNICIPAL ACCOUNTS.

Presentation of accounts Budget Estimates.

209. (*1*) A municipality shall have prepared and laid before it, at its periodical general meetings, complete accounts of the receipts and expenditure of the municipality since the 1st day of April last preceding, and at a general meeting which shall be held on such day between the 10th January and the 1st of March as may be fixed in this behalf by the rules of the municipality, a complete account of the actual and expected receipts and expenditure for the financial year ending on the 31st March next following, together with a budget estimate of the income and expenditure of the municipality for the financial year to commence on the 1st April next following.

(*2*) The municipality shall thereupon decide upon the appropriation and the ways and means contained in the budget of the year to commence on the 1st April next following. The budget so sanctioned may be varied or altered from time to time, as circumstances may render desirable at a special general meeting called for the purpose.

[The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Provided that the standing committee or any other committee appointed under the Act may, within the budget so sanctioned, sanction re-appropriations not exceeding Rs. 500 from one sub-head to another or from one minor head to another minor head under the same major head and controlled by the same committee. A statement of such re-appropriations shall be submitted to the municipality at every quarterly general meeting.

(3) The municipality shall at the general meeting in April or after audit of the past year's accounts, if such audit has not before that general meeting taken place, pass the accounts of the past years.

Collector's powers of suspending execution of orders, etc., of municipality.

Collector's order to be reported to Commissioner.

210. [1][(1) Independently of the audit provided for under the provisions of the Bombay Local Fund Audit Act, 1930, the municipal accounts may be audited at such intervals and by such agency as may be prescribed in the rules of the municipality.]

Bom. XXV 1930.

(2) The auditor shall, for the purposes of his office, have access to all the accounts and other records of the municipality.

Audit of municipal accounts.

211. A municipality shall as soon as the accounts of the past year have been finally passed by it transmit to [2][the Provincial Government] or any officer duly authorized by it in this behalf, a copy thereof, or an account in such form as [2][the Provincial Government] may prescribe, and shall furnish such details and vouchers relating to the same as [2][the Provincial Government] or such officer may from time to time direct.

Transmission of accounts to Provincial Government.

212. The quarterly and annual accounts, receipts and expenditure, and the budget when sanctioned, shall be open to public inspection, and shall be published in such manner as the municipality may prescribe in this behalf.

Publication of accounts.

CHAPTER XII.

CONTROL.

213. (1) The Commissioner, Collector or any officer of Government authorized by [2][the Provincial Government] by a general or special order shall have power—

Power of inspection and supervision.

(a) to enter on and inspect or cause to be entered on and inspected any immovable property occupied by any municipality or any institution under its control or management or any work in progress under it or under its direction;

(b) to call for or inspect any extract from any municipality's or any committee's proceedings and any book or document in the possession or under the control of a municipality.

(2) The Collector shall have power—

(a) to call for any return, statement, account or report which he may think fit to require such municipality to furnish;

(b) to require a municipality to take into its consideration any objection which appears to him to exist to the doing of anything which is about to be done or is being done by or on behalf of such municipality or any information which he is able to furnish and which appears to him to necessitate the doing of a certain thing by the municipality, and to make a written reply within such time, stating its reasons for not desisting from doing or for not doing such thing.

[1]

[1] This sub-section was substituted for the original sub-section by Bom. XXV of 1930.

[2] The words "the Provincial Government" were substituted for the words "the Governor in Council" by the Adaptation of Indian Laws Order in Council.

Collector's powers of suspending execution of orders, etc., of municipalities.

214. (1) If, in the opinion of the Collector, the execution of any order or resolution of a municipality, or the doing of anything which is about to be done or is being done by or on behalf of a municipality, is causing or is likely to cause injury or annoyance to the public or to lead to a breach of the peace or is unlawful, he may by order in writing under his signature, suspend the execution or prohibit the doing thereof.

Collector's order to be reported to Commissioner who may confirm or modify it.

(2) When the Collector makes any order under this section, he shall forthwith forward to the Commissioner and to the municipality affected thereby a copy of the order, with a statement of the reasons for making it; and it shall be in the discretion of the Commissioner to rescind the order, or to direct that it continue in force with or without modification permanently or for such period as he thinks fit.

Every case under this section to be reported to Provincial Government for their final orders.

(3) The Commissioner shall forthwith submit to [1][the Provincial Government] a report of every case occurring under this section, and [1][the Provincial Government] may revise or modify any order made therein, and make in respect thereof any other order which the Commissioner could have made:

Provided that no order of the Collector or the Commissioner passed under this section shall be confirmed, revised or modified by [2][the Provincial Government] without giving the municipality reasonable opportunity of showing cause against the said order.

Extraordinary powers of Collector in case of emergency.

215. (1) In cases of emergency the Collector may provide for the execution of any work, or the doing of any act, which may be executed or done by or on behalf of a municipality and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public; and may direct that the reasonable expense of executing the work or doing the act, with a reasonable remuneration to the person appointed to execute or do it, shall be forthwith paid by the municipality:

Power of inspection and supervision.

(2) If the expense and remuneration are not so paid, the Collector may make an order directing any person, who for the time being has custody of any moneys on behalf of the municipality, as its officer, treasurer, banker or otherwise, to pay such expense and remuneration from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order.

(3) The provisions of sub-sections (2) and (3) of section 214 shall apply, so far as may be, to any order made under this section.

Power of Commissioner to prevent extravagance in the employment of establishment.

216. If in the opinion of the Commissioner the number of persons who are employed by a municipality as officers or servants, or whom a municipality proposes to employ or, the remuneration assigned by the municipality to those persons or to any particular person is excessive, the municipality shall, on the requirement of the Commissioner, reduce the number of the said persons or the remuneration of the said person or persons:

Provided that the municipality may appeal against any such requirement to [1][the Provincial Government] whose decision shall be conclusive.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

217. [1][The Provincial Government] may order an inquiry to be held by any officer appointed by it in this behalf into any matters concerning the municipal administration of any municipal borough or any matters with respect to which its sanction, approval or consent is required under this Act. **Inquiry into municipal matters by Provincial Government.**

(*2*) The officer holding such inquiry shall for the purposes thereof have the powers which are vested in a Court under the Code of Civil Procedure in respect of the following matters :— V of 1908.

(*a*) discovery and inspection,

(*b*) enforcing the attendance of witnesses, and requiring the deposit of their expenses,

(*c*) compelling the production of documents,

(*d*) examining witnesses on oath,

(*e*) granting adjournments,

(*f*) reception of evidence taken on affidavit, and

(*g*) issuing commissions for the examination of witnesses;

and may summon and examine *suo motu* any person whose evidence appears to him to be material; and shall be deemed to be a Civil Court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. V of 1898.

Explanation.—For the purpose of enforcing the attendance of witnesses the local limits of such officer's jurisdiction shall be the limits of the Bombay Presidency.

(*3*) The reasonable expenses incurred by any person in attending to give evidence may be allowed by the officer holding the inquiry to such person and shall be deemed to be part of the costs.

(*4*) Costs shall be in the discretion of [1][the Provincial Government] and [1][the Provincial Government] shall have full power to determine by and to whom and to what extent such costs are to be paid, and to allow interest on costs at a rate not exceeding 6 per cent. per annum; and such costs and interest shall be leviable as an arrear of land revenue.

218. (*1*) When [1][the Provincial Government] is informed, on complaint made or otherwise, that default has been made in the performance of any duty imposed on a municipality by or under this Act or by or under an enactment for the time being in force, [1][the Provincial Government], if satisfied after due inquiry that the alleged default has been made may direct the Commissioner to fix a period for the performance of that duty. **Power of Provincial Government to provide for performance of duties on default by municipality**

(*2*) If that duty is not performed within the period so fixed, the Commissioner may appoint some person to perform it, and may direct that the expense of performing it, with a reasonable remuneration to the person appointed to perform it, shall be forthwith paid by the municipality.

[2][(*3*) If the expense and remuneration are not so paid, the Commissioner may make an order directing the bank in which any moneys of the municipality are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the municipality are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the municipality in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit

[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] This sub-section was substituted for the original sub-section (*3*) by Bom. 23 of 1931, s. 4 (*ii*).

by such bank or person ; and such bank or person shall be bound to obey such order. Every payment made persuant to such order shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum or sums so paid by it or him out of the moneys of the municipality so deposited with such bank or person.]

Power of Provincial Government to dissolve or supersede municipality in case of incompetency, default or abuse of power.

219. (*1*) If, in the opinion of [1][the Provincial Government], a municipality is not competent to perform, or persistently makes default in the performance of, the duties imposed on it by or under this Act, or otherwise by law, exceeds or abuses its powers, [1][the Provincial Government] may, after giving the municipality an opportunity to render an explanation, by an order published, with the reasons therefor, in the [2][*Official Gazette*] declare the municipality to be incompetent or in default, or to have exceeded or abused its powers, as the case may be, and may dissolve such municipality or supersede it for a period to be specified in the order.

Consequences of dissolution or supersession.

(*2*) When the municipality is so dissolved or superseded, the following consequences shall ensue :—

(*a*) all councillors of the municipality shall, in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution vacate their offices as such councillors ;

(*b*) all powers and duties of the municipality shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the Commissioner from time to time appoints in this behalf ;

(*c*) all property vested in the municipality shall, during the period of dissolution or supersession, vest in His Majesty ;

(*d*) the person or persons appointed under clause (*b*) may delegate his or their powers and duties to an individual or to a committee or sub-committee ;

(*e*) when more than one person are appointed under clause (*b*) they may sue or be sued by any one of them who has been duly authorised to sue and be sued on behalf of the rest by a resolution duly passed by them in this behalf.

Re-establishment of municipality after dissolution.

(*3*) On the issue of an order of dissolution under sub-section (*1*) elections of councillors shall be held under the provisions of this Act or of the rules made thereunder on or before a date to be specified by [1][the Provincial Government] in the order, and the municipality shall be re-established by the election or appointment of councillors under the aforesaid provisions on such date as may be specified by [1][the Provincial Government] in the aforesaid order.

Power after inquiry to continue period of supersession.

(*4*) If, after inquiry made, [1][the Provincial Government] so directs the period of supersession with all the consequences aforesaid shall, from time to time be continued by an order published as aforesaid until such date as may be fixed by [1][the Provincial Government] for the re-establishment of the municipality.

(*5*) After the municipality is superseded it shall be re-established by the election or appointment of councillors under the provisions of this Act or the rules made thereunder applicable thereto,

(*a*) if no direction has been made under sub-section (*4*) on the expiration of the period specified in the order of supersession under sub section (*1*), and

(*b*) if a direction has been made under sub-section (*4*) on such date as is fixed under that sub-section for the re-establishment of the municipality.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

220. In all matters, connected with this Act, [1][the Provincial Government] Commissioners and Collectors shall, respectively, have and exercise the same authority and control over Commissioners, Collectors and their subordinates as in matters of general and revenue administration.

Powers of Provincial Government and of the Commissioners over Collectors, etc.

221. All rules made by [1][the Provincial Government] or the Commissioner under this Act shall be laid [2][before each Chamber of the Provincial Legislature] for one month previous to the session thereof, and shall be liable to be rescinded or modified by a resolution [3][in which each of the said Chambers concurs during] its next session.

All rules made by Provincial Government or Commissioner to be laid before each Chamber of the Provincial Legislature.

SCHEDULE I.

(See section 4.)

MUNICIPAL BOROUGHS.

Northern Division.

1. Ahmedabad.
2. Nadiad.
3. Broach.
4. Surat.
5. Thana.
[4]6. *
[5]6A. Godhra.

Bombay Suburban

7. Bandra.
[6]Kurla.

Central Division.

8. Ahmednagar.
9. Jalgaon.
10. Bhusaval.
11. Amalner.
12. Dhulia.
13. Nasik.
14. Poona City.
15. Poona Suburban.
16. Lonavla.
17. Satara City.
18. Sholapur.
19. Pandharpur.
[7]20. Chalisgaon.
[8]21. Barsi.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[3] The words "in which each of the said Chambers concurs during" were substituted for the words "of the said Council tabled at", *ibid.*

[4] Godhra Municipal borough was repealed by Government Notifiction in the General Department No. 371, dated 29th September 1927, published in the *Bombay Government Gazette*, 1927, Part I-A, p. 56.

[5] Entry 6A was added by G. N., G. D., No. 3759/33, dated 15th February 1944.

[6] Kurla Municipality was included in this Schedule by Government Notification in the General Department No. 5107, dated the 19th April 1929, published in the *Bombay Government Gazette*, 1929, Part I-A, p. 65.

[7] Entry 20 was added by G.N., G.D., No. 9029, dated 28th September 1932.

[8] Entry 21 was added by G.N., G.D., No. 1408/33, dated 6th July 1936.

Southern Division.

22. Belgaum.
23. Bijapur.
24. Dharwar.
[1]24A. Nipani.
25. Hubli.
26. Gadag-Bettigeri.
27. Ratnagiri.

Sind.

28. Hyderabad.
29. Sukkur.
30. Shikarpur.
31. Larkana.

SCHEDULE II.

(*See clause (b) of section 75.*)

Notice is hereby given to the inhabitants of the municipal borough of that the municipality desire to impose the tax, rate, toll, octroi or cess (*as the case may be*) defined in the rules appended (in lieu of the tax known as the which is published at page of the sanctioned rules*).

*To be inserted if the tax is to be substituted for any existing tax.

Any inhabitant of the municipal borough objecting to the proposed tax may, within one month from the date of this notice, send his objection in writing to the municipality.

RULES.

[*The rules approved by the Municipality under clause (a) of section 75 are to be appended here.*]

SCHEDULE III.

(*See section 88.*)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS BEEN EFFECTED BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A. B.*, hereby give notice as required by section 88 of the Bombay

[1] Entry 24A was added by G. N., G. D., No. 5296/33, dated 6th June 1944.

[1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Date of instrument.	Name of vendor or assignor.	Name of purchaser or assignee.	Amount of consideration.	DESCRIPTION OF THE PROPERTY.						If any instrument has been registered, the date of registration.	Remarks.
					Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.		

Dated

(Signed)

SCHEDULE IV.

(*See section 88.*)

FORM OF NOTICE OF TRANSFER TO BE GIVEN WHEN THE TRANSFER HAS TAKEN PLACE OTHERWISE THAN BY INSTRUMENT.

To

THE CHIEF OFFICER,
Municipality.

I, *A. B.*, hereby give notice as required by section 88 of the Bombay [1][Municipal Boroughs] Act, 1925, of the following transfer of property :—

Date of Notice.	Name in which the property is at present entered in the Chief Officer's record	To whom it is to be transferred.	DESCRIPTION OF THE PROPERTY.						Remarks.
			Of what it consists.	Situation.	Number in Assessment Book.	Chief Officer's No.	Dimensions of land.	Boundaries.	

Dated

(Signed)

[1] The words "Municipal Boroughs" were substituted for the words "City Municipalities" by Bom. 24 of 1936, sec. 2, Schedule.

SCHEDULE V.

(See sub-section (3) of section 104.)

FORM OF NOTICE OF DEMAND.

To

A. B., residing at

Take notice that the municipality of demand from the sum of due from on account of

(Here describe the property or other thing in respect of which the tax is leviable.)

leviable under rule No. for the period of commencing on the day of 19 , and ending on the day of 19 , and that if, within fifteen days from the service of this notice, the said sum is not paid into the municipal office at , and sufficient cause for non-payment is not shown to the satisfaction of the Chief Officer, a warrant of distress or attachment will be issued for the recovery of the same with costs.

Dated this day of 19 .

(Signed)

Chief Officer.

SCHEDULE VI.

(See sub-section (1) of section 105.)

FORM OF WARRANT.

(Here insert the name of the officer charged with the execution of the warrant.)

Whereas A. B. of has not paid, and has not shown satisfactory cause for the non-payment of, the sum of due for the tax* mentioned in the margin for the period commencing on the day of 19 , and ending with the day of 19 , and leviable under rule No. ;

*Here describe the tax.

And whereas fifteen days have elapsed since the service on him of notice of demand for the same;

This is to command you to $\frac{\text{distrain}}{\text{attach}}$ subject to the provisions of section 105 of the Bombay City Municipalities Act, [...] $\frac{\text{the goods and chattels}}{\text{any property}}$ of the said A. B. to the amount of .....being the amount due from him, as follows :—

	Rs. a. p.
On account of the said tax ...	
For service of notice ...	
[1][For issue of warrant] ...	

and forthwith to certify to me together with this warrant all particulars of the $\frac{\text{goods distrained}}{\text{property attached}}$ by you thereunder.

Dated this day of 19 .

(Signed)

Chief Officer.

SCHEDULE VII.

(See clause (c) of sub-section (4) of section 105 and sub-section (1) of section 98.)

FORM OF INVENTORY AND NOTICE.

To

A. B., residing at

Take notice that I have this day $\frac{\text{distrained}}{\text{attached}}$ the $\frac{\text{goods and chattels}}{\text{property}}$ specified in the inventory beneath this, for the value of due for the tax* mentioned in the margin for the period commencing with the day of 19 and ending with the day of 19 together with Rs. due as for service of notice of demand [2][and Rs. due as for issue for warrant] and that unless within five days from the day of the date of this notice you pay into the municipal office at the said amount together with the costs of recovery, the said $\frac{\text{goods and chattels}}{\text{property}}$ will be sold.

*Here describe the tax.

Dated this day of 19 .

Signature of officer $\frac{\text{executing the warrant}}{\text{collecting octroi}}$.

Inventory.

(Here state particulars of $\frac{\text{goods and chattels}}{\text{property}}$ seized.)

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[1] These words were inserted by Bom. 12 of 1931, s. 3 (v).
[2] These words were added by Bom. 19 of 1935, s. 15.

THE INVALIDATION OF HINDU CEREMONIAL EMOLUMENTS ACT, 1926.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title
2. Extent and commencement.
3. Definitions.
4. Right to claim cerémonial emoluments.
5. Hereditary priest may be relieved of his obligation to perform services.
6. Extent to which rights of hereditary Hindu priest or his alienee affected under the Act.

Phone:
M. R. Dettanshetti,
Ex. M. L. A.
GULEDGUDD.
Dist:Bijapur

BOMBAY ACT No. XI OF 1926.[1]

[THE INVALIDATION OF HINDU CEREMONIAL EMOLUMENTS ACT, 1926]

[*13th October 1926.*]

An Act to amend the law relating to the emoluments claimable by hereditary Hindu priests.

WHEREAS it is expedient to amend the law relating to the emoluments claimable by hereditary Hindu priests and whereas the previous sanction of the Governor General required under section 80-A (*3*) of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called the Invalidation of Hindu Ceremonial Emoluments Act, 1926. Short title.

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay. Extent and commencement.

(*2*) It shall come into operation on the first day of April 1928.

3. In this Act— Definitions.

"Ceremonial emoluments" means all perquisites, fees and any other dues claimable by any person for religious ceremonials, on account of his being a hereditary priest or an alienee from a hereditary priest.

4. No person shall be entitled to claim, as a matter of right, any ceremonial emoluments from any Hindu who does not call in the services of the persons claiming those emoluments. Right to claim ceremonial emoluments.

5. After this Act comes into operation—

(*i*) every hereditary priest who holds no inam land or receives no cash allowance as remuneration for the performance of his services to the village shall be deemed to be relieved of his obligation to perform such services when required by any villager to officiate or to provide a substitute to officiate at any religious ceremony in the village. Hereditary priest may be relieved of his obligation to perform services.

(*ii*) a hereditary priest who holds inam lands or receives a cash allowance as remuneration for the performance of his services shall, at his option, on written application to the Collector, be relieved of his obligation to perform such services when required by any villager to officiate or to provide a substitute to officiate at any religious ceremony in the village if he agrees to pay full revenue assessment on his inam lands or, as the case may be, to forego his cash allowance; provided that such option shall be allowed to be exercised once only in the case of each inam grant.

6. Nothing in this Act shall affect the rights of a hereditary Hindu priest or an alienee from such priest to the inam lands or cash allowance attached to his office or the performance of any service pertaining to it, except to the extent specified herein. Extent to which rights of hereditary Hindu priest or his alienee affected under the Act.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1925, Part V, p. 488; for Report of the Select Committee, *see ibid.*, 1926, Part V, pp. 81–83; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1925, Vol. XVI, and 1926, Vols. XVII and XVIII.

THE BOMBAY NON-AGRICULTURISTS' LOANS ACT, 1928.

CONTENTS.

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SECTIONS.

1 Short title.

2. Extent.

3. Purpose for which loans may be granted.

4. Loans already granted to be deemed to have been granted under Act.

5. Recovery of loans.

6. Power to make rules.

BOMBAY ACT No. III OF 1928.[1]

[THE BOMBAY NON-AGRICULTURISTS' LOANS ACT, 1928.]

[*30th March 1928.*]

Amended by Bom. 11 of 1928.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 6 of 1949.

An Act to provide for the grant of loans by Government to non-agriculturists [2][for certain purposes] and for the recovery of such loans.

WHEREAS it is expedient to provide for the grant of loans by Government to non-agriculturists [3][for certain purposes] and for the recovery of such loans in manner hereinafter appearing:

And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A and the previous sanction of the Governor required by section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called "the Bombay Non-Agriculturists' Loans Act, 1928". Short title.

2. Section 1 and this section extend to the whole of the Bombay Presidency. The rest of the Act may be extended by the [3][Provincial Government] by notification in the [4][*Official Gazette*] to any part of the Presidency from such date as may be specified in such notification. Extent.

†3. Subject to such rules as may be made under section 6, loans may be granted under this Act [5][for erecting, rebuilding or repairing houses, for building or repairing boats] or for the relief of distress to any person to whom a loan under the [6]Agriculturists' Loans Act, 1884, cannot be granted. Purpose for which loans may be granted.

XII of 1884.

4. All loans granted after the 1st day of August 1927 to such persons as are referred to in section 3 for the purpose mentioned therein shall be deemed to be loans granted under this Act. Loans already granted to be deemed to have been granted under Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1928, Pt. V, p. 7; and for proceedings in Council, *see* Bombay Legislative Council Debates, 1928, Vol. XXII.

[2] These words were substituted by Bom. 6 of 1949, s. 3.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] These words were substituted for the original by Bom. 6 of 1949, s. 4.

[6] *See* Central Acts.

† The provisions of sections 3 to 6 have been extended to the district of West Khandesh with effect from 25th September 1944 [*vide* G. N., R. D., No. 10517/39, dated 25th September 1944].

Recovery of loans.

5. [1]* All loans granted or deemed to have been granted under this Act, together with all interest (if any) chargeable thereon, and costs (if any) incurred in making or recovering the same shall be recoverable at the discretion of the Collector in any one or more of the following modes, namely :—

(*a*) from the borrower—as if they were arrears of land revenue due by him ;

(*b*) from his surety (if any)—as if they were arrears of land revenue due by him ;

(*c*) out of the assets left by a deceased borrower or surety or out of the property comprised in the collateral security (if any)—according to the procedure for the realization of land revenue by the sale of a defaulter's moveable or immovable property other than the land on which that revenue is due ;

(*d*) if the loan is for the benefit of a house, out of such house,—as if it were arrears of land revenue due in respect of the land on which the house stands.

Power to make rules.

[2]6. (*1*) The [3][Provincial Government] may, from time to time, by notification in the [4][*Official Gazette*], make rules to carry out the purpose of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for the following matters, namely :—

(*a*) the manner of making applications for loans ;

(*b*) the officers by whom loans may be granted ;

(*c*) the nature of the security, if any, to be taken for the due application and repayment of the money, the rate of interest at which and the conditions under which the loans may be granted and the manner and term of granting loans ; and

(*d*) the instalments by which and the mode in which loans shall be repaid.

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[1] The figure and brackets "(*1*)" were repealed by Bom. 11 of 1928, s. 3, and Second Schedule.

[2] For Rules under this section, *see* Government Notification in the Finance Department No. 6004-E. dated the 1st December 1930, published in the *Bombay Government Gazette*, 1930, Part I, pp. 2951-58.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

THE BOMBAY UNIVERSITY ACT, 1928.

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BOMBAY ACT No. IV OF 1928.[1]

[THE BOMBAY UNIVERSITY ACT, 1928.]

[*2nd August 1928.*]

Amended by Bom. 12 of 1928.
" " " 13 of 1929.
" " " 15 of 1930.
" " " 20 of 1930.
" " " 10 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Counci
Amended by Bom. 11 of 1944[2].
" " " 49 of 1948.

An Act to amend the law relating to the University of Bombay.

WHEREAS by [3]Act XXII of 1857 a University was established and incorporated at Bombay;

And whereas the law relating to the said University was amended by the [3]Indian Universities Act, 1904;

VIII of 1904.

And whereas it is necessary to reconstitute the said University to enable it to provide greater facilities for higher education and to conduct post-graduate teaching and research in all branches of learning, including technology, while continuing to exercise due control over the teaching given by colleges affiliated to it from time to time; And whereas the previous sanction of the Governor General required by section 80A (*3*) and the previous sanction of the Governor required by section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

CHAPTER I.—PRELIMINARY.

1. This Act may be called the Bombay University Act, 1928. Short title.

2. This section and sections 1 and 44 shall come into operation at once. The rest of the Act shall come into operation on such date as Government may, by notification [4]in the [5][*Official Gazette*] appoint in this behalf. Commencement.

3. In this Act, unless there is anything repugnant in the subject or context— Interpretation.

(*a*) "College" means an affiliated college;

(*b*) "Fellow" means an *ex-officio* Fellow or an ordinary Fellow of the University appointed under the provisions of this Act but does not include an Honorary Fellow;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1927, Part V, p. 81; for Report of the Select Committee, *see ibid.*, 1927, Part V, p. 114; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1927, Vols. XX and XXI and 1928, Vol. XXII.

[2] This Act was repealed and sections 2 and 3 thereof were re-enacted by Bom. 6 of 1948, s. 2.

[3] Central Acts.

[4] Sections 3 to 43 and 45 to 52 came into operation on 24th January 1929 (*vide* Government Notification in the Educational Department, No. 3132, dated the 23rd January 1929, published in the *Bombay Government Gazette*, 1929, Part I, p. 132.)

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*c*) "Head Master" means the head of a High School registered by the University;

(*d*) "prescribed" means prescribed by the Act or by any Statutes, Ordinances or Regulations made thereunder;

(*e*) "Principal" means the head of a college;

(*f*) "Registered Graduate" means a graduate registered under the provisions of this Act or of [1]the Indian Universities Act, 1904; VIII of 1904.

(*g*) "Statutes", "Ordinances" and "Regulations" means respectively the Statutes, Ordinances and Regulations of the University made or deemed to have been made under this Act and for the time being in force;

(*h*) "Teacher" means such Professor, Reader, Lecturer and person giving instruction in any college as may be declared by the Statutes to be a teacher;

(*i*) "University" means the University of Bombay as reconstituted under this Act;

(*j*) "University Department" means any collegiate institution or post-graduate or research department maintained by the University;

(*k*) "University Professor" means a person appointed as such by the University; and

(*l*) "University Teacher" means a person appointed by the University to give instruction on its behalf.

CHAPTER II.—THE UNIVERSITY.

Incorporation and powers of the University.

4. (*1*) The University shall be and shall be deemed to have been incorporated for the purpose (among others) of making provision for the instruction of students, with power to appoint University Professors and University Teachers, to hold and manage educational endowments, to erect, equip and maintain University laboratories and museums, to make regulations relating to the residence and conduct of students, to lay down courses of instruction for the various examinations, to guide the teaching in colleges, to inspect colleges and to take measures to ensure that proper standards of teaching are maintained in them, to hold examinations, to confer degrees, to undertake post-graduate teaching and to promote research, and to do all acts, not inconsistent with this Act, which tend to the promotion of study and research.

(*2*) The Chancellor, Vice-Chancellor, the Rector (if any), the Fellows and all persons who may hereafter become or be appointed or elected to be Chancellor, Vice-Chancellor, Rector or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, Rector or Fellows, are hereby constituted and declared to be one Body Corporate by the name of the University of Bombay; and such Body Corporate shall by such name, have perpetual succession and a common seal, and by such name shall sue and be sued.

(*3*) The University shall be competent to acquire and hold property, both moveable and immovable, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it for the purposes of the University and to contract and do all other things necessary for the purposes of this Act.

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[1] Central Acts.

[1][4A. The territorial limits within which the powers conferred upon the University by this Act shall be exercised shall comprise the whole of the Bombay Presidency (excluding Aden) and such Indian States and other territories as may from time to time, be notified in this behalf by the [2][Central Government] in the [3][*Official Gazette*].] Territorial limits of the University.

5. (*1*) The Chancellor shall have the right to make an inspecion or to cause an inspection to be made by such person or persons, as he may direct, of the University, of any institutions associated with the University and of any work conducted or done by the University, and to make an enquiry or to cause an enquiry to be made in like manner in respect of any matter connected with the University. The Chancellor shall in every case give notice to the Senate of his intention to make an inspection or enquiry or to cause an inspection or enquiry to be made, and the Senate shall be entitled to be represented thereat. Inspection of the University.

(*2*) The Chancellor may, after such inspection or enquiry, by order in writing, cancel any decision of the University or any authority thereof in respect of any matter which is not in conformity with this Act and the Statutes, Ordinances and Regulations:

Provided that, before making any such order, he shall call upon the Senate to show cause why such an order should not be made, and if any cause is shown within a reasonable time, he shall consider the same.

6. No person shall be excluded from membership of any of the authorities of the University or from admission to any degree or course of study on the sole ground of sex, race, creed or class, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever relating to religious belief or profession in order to entitle him to be admitted thereto as a teacher or student or to hold any office therein or to graduate thereat or to enjoy or exercise any privileges thereof except where in respect of any particular benefaction accepted by the University such test is made a condition thereof. Religious and other tests.

7. The following shall be the authorities of the University:— Authorities of the University.

(1) The Senate,

(2) The Faculties,

(3) The Syndicate,

(4) The Academic Council,

(5) The Board of Post-graduate Studies,

(6) Such other bodies as the Senate may declare by Statutes to be authorities of the University.

CHAPTER III.—THE SENATE. ITS POWERS, CONSTITUTION AND DUTIES.

8. The Senate shall consist of the Fellows of the University (*ex-officio* and ordinary). Constitution of the Senate

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[1] Section 4A was inserted by Bom. 20 of 1930, s. 2.

[2] The words "Central Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" *ibid.*

The Chancellor.

9. [1](*1*) The Chancellor of the University shall be such person as the Governor-General, exercising his individual judgment, may nominate in this behalf.] He shall, by virtue of his office, be the head of the University and the President of the Senate and shall, when present, preside at meetings of the Senate and at any convocation of the University.

(*2*) The Chancellor shall exercise such powers as may be conferred on him under the provisions of this Act.

The Vice-Chancellor.

10. The Chancellor shall appoint a Vice-Chancellor who shall, save as herein otherwise provided, hold office for two years, and shall be eligible for re-appointment.

Powers of the Vice-Chancellor.

11. The Vice-Chancellor shall be responsible for the proper administration of the University and shall

(*a*) in the absence of the Chancellor, preside at the convocation and meetings of the Senate;

(*b*) convene the Senate;

(*c*) preside when present at the meetings of the Syndicate and exercise such other powers as may be conferred on him by this Act, the Statutes, Ordinances and Regulations.

The Rector.

12. (*1*) The Senate may create the office of the Rector by a statute to be framed by a majority of at least three-fourths of the whole number of Fellows.

(*2*) The Rector shall be a wholetime salaried officer of the University. He shall, subject to the approval of the [2][Central Government], be appointed by the Senate and shall have rank and precedence next after the Chancellor and the Vice-Chancellor.

(*3*) The Senate may, subject to the provisions of this Act, frame Statutes prescribing the manner of appointment of the Rector, the salary and conditions of his office and his powers and duties.

Fellows.

13. (*1*) The Fellows of the University shall be—

I. Ex-officio,

(A) (*i*) The Chancellor,
(*ii*) The Vice-Chancellor,
(*iii*) The Rector (if any),
(*iv*) The Registrar of the University.

(B) (*i*) The Chief Justice of Bombay,
(*ii*) The Minister of Education, Bombay,
(*iii*) The Director of Public Instruction, Bombay,
(*iv*) The Surgeon General with the Government of Bombay,
(*v*) The Director of Agriculture, Bombay,
(*vi*) The Secretary to the Government of Bombay, Public Works Department,

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[1] These words were substituted for the words "The Governor of Bombay, for the time being, shall be the Chancellor of the University" by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the word "Government", *ibid.*

(*vii*) Vice-Chancellors of other Universities, if any, established by law in the Bombay Presidency, and holders of such other offices as are prescribed by Statutes: provided that the number of such Fellows shall not exceed five.

(C) All Heads of University Departments.

II. Ordinary.

(A) Elected as prescribed below :—

(*i*) By one electorate of principals of colleges entitled to send up students for degree examination from among themselves as under :—	13
[1](*a*) Principals of arts colleges as follows :—	
(1) one principal elected by separate elections to represent the principals of arts colleges in each group as hereinafter defined ...	5
(2) three principals elected by a separate election to represent the principals of arts colleges in all the groups as hereinafter defined	3
(*b*) Principals of colleges of pure science	1
(*c*) Principals of colleges of medicine	1
(*d*) Principals of colleges of agriculture	1
(*e*) Principals of colleges of engineering	1
(*f*) Principals of colleges of law	1
(*ii*) By University teachers and teachers including principals from among themselves	20
(*iii*) One by head masters of schools in each group from among themselves	5
(*iv*) By public associations or bodies in British India as under :—	15
(*a*) Municipal Corporation of the City of Bombay	1
(*b*) Indian Merchants' Chamber	1
(*c*) Chamber of Commerce	1
(*d*) Millowners' Association, Bombay	1
(*e*) Millowners' Association, Ahmedabad	1
(*f*) [2][Municipal Boroughs] of the Gujarat Group	1
(*g*) [2][Municipal Boroughs] of the Deccan Group	1
(*h*) [2][Municipal Boroughs] of the Karnatak Group	1
(*i*) [2][Municipal Boroughs] of the Konkan Group (except Bombay City)	1
(*j*) [3][Municipal Boroughs of the Sind Group] and the Karachi municipality	1
(*k*) District local boards of the Gujarat Group	1
(*l*) District local boards of the Deccan Group	1
(*m*) District local boards of the Karnatak Group	1

[1] This entry was substituted by Bom. 15 of 1930, s. 2.
[2] The words "Municipal Boroughs" were substituted for the words "City Municipalities", by Bom. 13 of 1929, s. 2.
[3] These words were inserted, *ibid.*

(*n*) District local boards of the Konkan Group 1

(*o*) District local boards of the Sind Group 1

(*v*) By registered graduates 25

(*vi*) By the Faculties 10

(*vii*) By the [1][Bombay Legislative Assembly], of whom one shall be the representative of the University on the [2][Assembly] if he is not already a member of the Senate 5

[3][Provided that,—

(*1*) every person elected under any of the entries (*i*), (*ii*) and (*iii*) [4][or under any of the clauses (*a*), (*b*), (*c*), (*d*) and (*e*) of entry (*iv*)] shall hold the office of a Fellow only so long as he occupies the office or comes under the designation which entitled him to be so elected ; and

(*2*) the Fellows representing the [1][Bombay Legislative Assembly] shall hold office for the duration of the Legislative [2][Assembly] electing them and thereafter up to the date on which new Fellows are elected by next [2][Assembly].

[5][(*3*) The councillor of the Municipal Corporation of the City of Bombay elected by Fellows shall not be eligible to be elected as a Fellow by the said body.]

Explanation (*1*).—For the purposes of this section [6]* * * the Bombay Presidency (excluding Aden) shall be divided into the following groups :—

Name of Group.	Territorial extent of the group.
1 Gujarat group ...	Ahmedabad, Surat Panch Mahals, Kaira and Broach districts.
2 Konkan group ...	The City of Bombay and the Nasik, Thana, Bombay Suburban, Ratnagiri and Kolaba districts.
3 Deccan group ...	Poona, Satara, Sholapur, Ahmednagar, West Khandesh and East Khandesh districts.
4 Karnatak group ...	Belgaum, Dharwar, Bijapur and Kanara districts.
5 Sind ...	Province of Sind.

The Senate shall, by statute, determine to which of the groups abovementioned schools and colleges in Indian States [7][and other territories within the territorial limits of the University] shall be attached.

Explanation (*2*).—The [8]* * municipalities and district local boards mentioned in sub-clauses (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*), (*m*), (*n*) and (*o*) are free to elect a person, who need not be a member of the city municipality or a district local board, to represent them on the Senate.

(B) Nominated by the Chancellor 40

(C) Donors to, or for the purposes of, the University of money or property to the value of not less than one lakh of rupees, if willing to serve, to be subject to the provisions of sections 14, 15 and 17 Fellows for life.

(D) One nominee of each of the bodies giving a donation to, or for the purposes of, the University of money or property to the value of not less than one lakh

[1] The words "Bombay Legislative Assembly" were substituted for the words "Legislative Council of the Governor of Bombay" by the Adaptation of Indian Laws Order in Council.
[2] The word "Assembly" was substituted for the word "Council", *ibid.*
[3] This proviso was added by Bom. 15 of 1930, s. 2.
[4] These words, letters, figures and brackets were inserted by Bom. 10 of 1936, s. 3 (*a*).
[5] This proviso was inserted, *ibid.*
[6] The words "the Schools and Colleges in" were omitted by Bom. 13 of 1929, s. 2.
[7] These words were inserted by Bom. 20 of 1930, s. 3.
[8] The word "City" was omitted by Bom. 13 of 1929, s. 2.

of rupees: Provided that the right of making any such nomination and, subject also to the provisions of sections 14, 15, 16 and 17, the tenure of any such nominee shall not extend beyond a period of twenty years from the date of the acceptance by the University of any such donation.

Explanation.—For the purposes of this section the value of any property offered as a donation to the University shall mean the market value of such property on the date of acceptance of the donation by the Senate.

(*2*) If in the case of any election the question is raised whether any person is or is not a Principal or a University Professor or University teacher or Head-master or a teacher the question shall be decided by the Vice-Chancellor.

Office vacated leaving India.

14. (*1*) If any person being Chancellor, Vice Chancellor, or Fellow of the said University shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

(*2*) If the Vice-Chancellor is temporarily absent from India the Chancellor may appoint another person to act as Vice-Chancellor during the absence of the absent Vice-Chancellor.

Vacating of office.

15. (*1*) Any Ordinary Fellow may, by letter addressed to the Chancellor, resign his office and on the acceptance of the resignation the office shall become vacant.

(*2*) If for a period of twelve consecutive months any Ordinary Fellow except a Fellow for life, has not attended a meeting of the Senate, other than a convocation, the Chancellor may declare his office to be vacant.

[1][(*3*) Any person who holds any office in the University by virtue of his being a Fellow, shall cease to hold such office on his ceasing to be a Fellow.]

Term of office of Ordinary Fellows.

16. (*1*) The Ordinary Fellows shall, save as herein otherwise provided hold office for five years.

(*2*) An Ordinary Fellow who has vacated his office may, subject to the provisions of this Act, be elected or nominated to be an Ordinary Fellow.

The appointment of a Fellow may be cancelled.

17. The [2][Central Government] may, on the recommendation of the Senate supported by at least two-thirds of the whole number of Fellows, cancel the appointment of any person appointed or elected a Fellow of the University. As soon as such order is notified in the [3][*Official Gazette*], the person so appointed or elected shall cease to be a Fellow; and he shall not be eligible for re-appointment or re-election until the disqualification has been removed by the [2][Central Government] by a notification in the [3][*Official Gazette*].

Powers of the Senate.

18. (*1*) The Senate shall be the supreme governing body of the University and shall exercise all powers and perform all duties conferred or imposed on it by or under this Act as well as all powers of the University not provided for in this Act.

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[1] This sub section was inserted by Bom. 15 of 1930, s. 3.

[2] The words "Central Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(2) In particular, and without prejudice to the generality of the foregoing provision, the Senate may—

(a) save as provided in section 44 make, amend, or repeal Statutes and accept, reject or refer back but not amend draft Statutes submitted by the Syndicate;

(b) subject to the provisions of this Act consider and cancel or refer back but not amend ordinances of the Syndicate, and regulations of the Academic Council;

(c) consider and pass resolutions on the Annual Report, Accounts and Estimates;

(d) consider the Annual Financial Statement placed before it by the Syndicate and pass it with such modifications as the Senate may think fit;

(e) make provision for the physical [1]* * training of students;

[2][(ee) make grants from the funds of the University towards the maintenance of any University Corps established for the University under the Indian Territorial Force Act, 1920;] XLVIII of 1920.

(f) institute and maintain professorships and other teaching posts, University Departments and hostels, found scholarships and prizes, and encourage the pursuit of learning by other means;

(g) grant and confer degrees;

(h) elect office-bearers and authorities provided in this Act and Statutes;

(i) accept donations and endowments, and, if the interests of the University so require, give up any donation or endowment it has accepted;

(j) consider and decide appeals in cases where such appeal is provided for in the Statutes;

(k) delegate any of its powers to such authority or authorities as it may deem fit; and

(l) generally do all such other acts and things as may be necessary or desirable to further the objects of the University.

CHAPTER IV.—FACULTIES.

Faculties.

19. (1) The University shall include such Faculties as are constituted by the Senate by Statutes from time to time.

(2) The Senate shall frame Statutes prescribing the constitution of each Faculty.

(3) A Fellow may be assigned, on the recommendation of the Syndicate to one or more Faculties.

(4) The Syndicate shall frame Ordinances governing the conduct of business of each Faculty and the appointment by each Faculty of its Chairman (to be called the Dean).

(5) The Senate may empower any Faculty to co-opt as members to serve on Boards of Studies controlled by it persons who possess special knowledge of the subjects of study represented by the Faculty, but who are not Fellows, in such manner and for such period as may be prescribed by the Syndicate by ordinance:

Provided that the number of persons so co-opted by any Faculty shall not exceed half the number of Fellows assigned to that Faculty.

CHAPTER V.—THE SYNDICATE.

The Syndicate.

20. (1) The executive government of the University shall be vested in the Syndicate constituted as follows from among the Fellows:—

(a) the Vice-Chancellor;

(b) The Rector, if any;

[1] The words "and military" were omitted by Bom. 12 of 1928, s. 2.

[2] This clause was inserted, *ibid.*, s. 2.

(*c*) the Director of Public Instuction, Bombay;

[1][(*d*) seven persons elected by the members of the Academic Council from among themselves as follows :—

(*i*) one to represent each Faculty by separate elections; and

(*ii*) the remaining, if any, to represent the Academic Council generally;]

(*e*) nine persons to be elected by the Senate from among the Fellows who are neither Principals, University Professors, University Teachers, Teachers nor Head Masters.

[2][(*2*) Every member of the Syndicate shall, save as otherwise provided in section 18A, hold office for three years:

Provided that a member elected under clause (*d*) or (*e*) of sub-section (*1*) shall cease to hold office as such member if he ceases to be a member of the Academic Council or the Senate, as the case may be.]

(*3*) The Senate shall frame Statutes prescribing the manner of election of elected members of the Syndicate and the conditions governing their term of office.

(*4*) If in the case of any election the question is raised whether any person is or is not a Principal or a University Professor or a University Teacher or Teacher or Head Master, the question shall be decided by the Vice-Chancellor.

21. The Syndicate shall have power— Powers and duties of the Syndicate.

(*a*) to direct the form, custody and use of the common seal of the University;

(*b*) subject to the powers conferred by this Act on the Senate, the Vice-Chancellor and the Rector (if any), to regulate and determine all matters concerning the University in accordance with the provisions of this Act, the Statutes and the Ordinances;

(*c*) to accept, reject, return to the Academic Council for reconsideration, but not amend regulations framed by the Academic Council;

(*d*) to frame the budget of the University for the consideration of the Senate;

(*e*) to administer the funds and property of the University;

(*f*) save as otherwise provided by this Act or the Statutes, to appoint on recommendation of a committee of selection if any as required by the Act or Statutes the officers (other than the Chancellor, the Vice-Chancellor and the Rector), University Professors, University Teachers and servants of the University, to define their duties and the conditions of their service, and to provide for the filling of temporary vacancies in their posts;

(*g*) to accept, subject to the direction of the Senate, transfer of any moveable or immovable property on behalf of the University;

(*h*) to arrange for and direct the inspection of colleges and hostels, and to issue instructions for maintaining the efficiency of the Colleges and in case of disregard of such instructions, to recommend modification of the conditions of affiliation and to take such other steps as it deems proper;

(*i*) to call for reports, returns and other information from the Colleges;

(*j*) to appoint examiners and to make ordinances for the conduct of University examinations;

(*k*) to publish the results of the University examinations and other tests;

(*l*) to control the University library and to appoint a library committee provided that at least half the members of the Committee shall be appointed from the Academic Council;

[1] This clause was substituted for the original clause by Bom. 15 of 1930, s. 4.

[2] This sub-section was substituted for the original sub-section by Bom. 11 of 1944, read with Bom. 6 of 1948, s. 2.

(*m*) to provide for buildings, premises, furniture, apparatus and other means needed for carrying on the work of the University ;

(*n*) to enter into, vary, carry out. and cancel contracts on behalf of the University in the exercise or performance of the powers and duties assigned to it by the Act and the Statutes ;

(*o*) to make, amend and cancel Ordinances ;

(*p*) to fix, demand and receive such fees for the degrees to be conferred by it and upon admission into the University and for continuance therein and for other purposes of a like nature as may be prescribed by Statutes ;

(*q*) to make provision for post-graduate instruction and research ; and

(*r*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act or the Statutes :

Provided that the Syndicate shall not arrive at any decision in regard to matters referred to in clauses [1][(*h*)] and (*j*) without inviting and receiving a report thereon from the Academic Council.

CHAPTER VI.—THE ACADEMIC COUNCIL.

Constitution of the Academic Council.

22. The Academic Council shall consist of the following members, all of whom need not be Fellows :—

(*i*) The Rector, if any, otherwise the Vice-Chancellor.....the Chairman ;

(*ii*) Deans of Faculties ;

(*iii*) Such number of representatives not exceeding five of the University Professors and whole time University Teachers, as may be determined by Statute ;

(*iv*) two Head Masters to be elected by the Senate from among the Fellows ;

(*v*) twenty representatives of the Boards of Studies or groups of Boards of allied Studies as may be determined by Statute ; and

(*vi*) five persons elected by the Senate from among Fellows.

Election of the Academ Council.

23. (*1*) The Senate shall frame a Statute prescribing the manner of election of the elected members of the Academic Council, and the conditions governing their term of office.

(*2*) If in the case of any election the question is raised whether any person is or is not a University Professor or a whole-time teacher or head master, the question shall be decided by the Vice-Chancellor.

Powers of the Academic Council.

24. The Academic Council shall frame regulations as provided in this Act and shall have the following powers :—

(*a*) to regulate teaching and examinations within the University ;

(*b*) to determine and maintain the standards of examinations remaining responsible for the maintenance of such standards ;

(*c*) to make regulations laying down courses of study subject to the approval of the Syndicate ;

(*d*) to propose to the Syndicate the institution of new University teaching appointments, their duties and emoluments ;

(*e*) to propose to the Syndicate schemes for the constitution of University Departments, Faculites and Boards of Studies ;

(*f*) to make regulations for the award of University scholarships and prizes ;

(*g*) to recommend to the Syndicate the names of persons to be appointed examiners ;

[1]The letter and brackets "(*h*)" were substituted for the letter and brackets "(*b*)" yb Bom. 15 of 1930, s. 5.

(*h*) to make regulations prescribing equivalance of examinations;

(*i*) to arrange for co-ordination of studies and inter-collegiate lectures;

(*j*) to make regulations prescribing the conditions to be complied with by candidates not being students of any College for degrees, diplomas, licences, titles, marks of honour, scholarships and prizes conferred or granted by the University;

(*k*) to exercise such other powers as may be conferred on it by Statutes; and

(*l*) generally to advise the University on all academic matters.

CHAPTER VII.—THE BOARD OF POST-GRADUATE STUDIES.

The Board of Post-graduate Studies.

25. (*1*) The Board of Post-graduate Studies shall consist of:

(*i*) the Rector, if any, otherwise the Vice-Chancellor.....the Chairman;

(*ii*) four members appointed by the Syndicate;

[1][(*iii*) three members appointed by the Academic Council;

(*iv*) one University Professor appointed by the Academic Council.]

(*2*) The Board shall subject to the Act, and Statutes, Ordinances and Regulations framed thereunder control and co-ordinate post-graduate teaching and research in the University Departments and the Colleges and shall recommend to the Syndicate what teachers in the Colleges shall be recognised as University Teachers for Post-graduate instruction and research.

CHAPTER VIII.—OTHER UNIVERSITY BODIES.

Boards of Studies.

26. (*1*) The Senate may, from time to time, frame Statutes constituting Boards of Studies, defining their functions, and attaching each Board to one or more Faculties.

(*2*) The Senate may abolish any Board of Study so constituted.

Other bodies.

27. The Senate may by Statutes constitute and define the functions of such other bodies as it may from time to time deem necessary for the purpose of carrying out the work of the University, and may abolish any of the bodies so constituted.

Committee of Selection.

28. (*1*) Whenever it is necessary to appoint a whole-time University Professor or University teacher, a Committee of Selection shall be formed.

(*2*) The members of the Committee shall be:

(*a*) The Vice-Chancellor (Chairman);

(*b*) Four persons having special knowledge of the subject, to be selected as follows:—

(*i*) one, who shall be a member of a Faculty of the University; by the Academic Council;

(*ii*) three, who shall not be Fellows, Members of Faculties, University Professors, University Teachers, or Teachers: one by the Academic Council, and two by the Syndicate.

(*3*) The Committee shall investigate the merits of the various candidates, and shall report to the Syndicate the names arranged in order of merit of persons, if any, whom it considers to be suitable for the vacant post.

(*4*) The Syndicate shall make the final selection out of the persons, if any, so recommended.

[1] Clauses (*iii*) and (*iv*) were substituted for the original clauses by Bom. 15 of 1930, s. 6.

[1][CHAPTER VIII-A.—QUALIFICATIONS FOR ENROLMENT.

Qualifications for enrolment of students of University.

28A. No student shall be enrolled as a student of the University unless he has passed—

(*i*) the Matriculation Examination held by the University before this section comes into force : or

(*ii*) the Secondary School Certificate Examination conducted by the Secondary School Certificate Examination Board in such subjects and with such standards of attainment as may be prescribed by the Statutes; or

(*iii*) the Entrance Examination, if any, which may be instituted by the University with the consent of the Provincial Government, and held in such subjects and in such manner as may be prescribed by the Statutes; or

(*iv*) any other examination prescribed as equivalent to the examinations referred to in clauses (*ii*) and (*iii*)

and possesses such further qualification, if any, as may be prescribed by the Statutes.]

CHAPTER IX.—DEGREES.

Degrees, diplomas, licences, titles and marks of honour.

29. The Senate may institute and confer such degrees, and grant such diplomas, licences, titles and marks of honour in respect of degrees and examinations as may be prescribed by Statutes.

Honorary Degrees.

30. If not less than two-thirds of the members of the Syndicate recommend that an honorary degree be conferred on any person on the ground that he is in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such a degree and where their recommendation is supported by not less than two-thirds of the Fellows present at a meeting of the Senate and is confirmed by the Chancellor, the Senate may confer on such person the honorary degree so recommended without requiring him to undergo any examination.

Cancellation of degrees and the like and their restoration.

31. (*1*) Where evidence is laid before the Syndicate showing that any person on whom a degree, diploma, licence, title or mark of honour has been conferred by the Senate or who is an Honorary Fellow, has been convicted of what is, in the opinion of the Syndicate, a serious offence, the Syndicate may, after giving the person concerned an opportunity to explain, propose to the Senate that the degree, diploma, licence, title or mark of honour or Honorary Fellowship be cancelled, and, if the proposal is accepted by not less than two-thirds of the Fellows of the Senate and is confirmed by the Chancellor, the degree, diploma, licence, title, mark of honour or Honorary Fellowship shall be cancelled accordingly.

(*2*) The degree, diploma, licence, title or mark of honour may subsequently be restored on good cause shown.

(*3*) The procedure for the restoration of a degree, diploma, licence, title or mark of honour, shall, as far as is practicable, be as in sub-section (*1*) of this section.

CHAPTER X.—UNIVERSITY FUND.

University Fund.

32. (*1*) The fees charged by the Senate shall be carried to one General Fee Fund for the payment of expenses of the University.

[1] This Chapter was inserted by Bom. 49 of 1948, s. 34 (*1*).

(*2*) [1]* * * * *

(*3*) The accounts of income and expenditure of the University shall, once in every year, be submitted to the [2][Central Government] for such examination and audit as the Government may direct.

CHAPTER XI.—STATUTES, ORDINANCES AND REGULATIONS.

Statutes—their scope

33. (*1*) The Senate may, from time to time, make Statutes not inconsistent with this Act, for all matters relating to the University.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such Statutes may provide for—

(*a*) the declaration of any person to be a teacher under section 3 (*h*);

(*b*) the declaration of other bodies to be authorities of the University as provided in section 7 (*6*);

(*c*) the manner of election of the elected Fellows and the elected members of the Syndicate, the Academic Council and the Board of Post-graduate Studies and the term and conditions of their office, the maintenance of a register of registered graduates and the filling up of casual vacancies in the Senate, the Syndicate, the Academic Council and the Board of Post-graduate Studies;

(*d*) the powers of the Vice-Chancellor:

(*e*) the appointment, conditions of office, powers and duties of the Rector, if any, and the Registrar and of the officers and servants of the University;

(*f*) the prescribing of offices the holder of which shall be *ex-officio* Fellows under section 13 (*1*) (B) (*vii*);

(*g*) the constitution, reconstitution or abolition of Faculties;

(*h*) the procedure at meetings of the Senate, the Syndicate, the Academic Council, the Board of Post-Graduate Studies and the Faculties and the quorum of members to be required for the transaction of business;

(*i*) the duties of the Academic Council;

(*j*) the constitution and powers of Boards of Studies; the functions of each such Board, the procedure of such boards and the quorum of members to be required for the transaction of business, and the attaching of each Board to one or more Faculties;

(*k*) the holding and control of the [3][Entrance Examination instituted under section 28A].

[4][(*kk*1) the conditions to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for the Entrance Examination;

(*kk*2) the condition to be complied with by schools desiring recognition for the purpose of sending up pupils as candidates for the Secondary School Certificate Examination.

Explanation.—For the purposes of this clause, 'schools' shall mean schools in such of the Indian States and other territories notified under section 4A as the Provincial Government may specify in this behalf;

(*kk*3) the conditions to be complied with by candidates for the Entrance Examination whether sent up by recognized schools or not;]

(*l*) the constitution, powers and duties of the authorities of the University save as provided in this Act;

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[1] Sub-section (*2*) was omitted by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the words "Government of Bombay", *ibid.*

[3] These words were substituted for the words "matriculation examination" by section 49 of 1948, s. 34 (*2*).

[4] These clauses were substituted for clause (*kk*), *ibid.*

(*m*) the institution and conferment of degrees and the granting of diplomas, licences, titles and marks of honour in respect of degrees and examinations;

(*n*) the registers of graduates and students to be kept by the University;

(*o*) the institution of pension or provident fund for the benefit of the officers, teachers and other servants of the University;

(*p*) all matters which by this Act may be prescribed by the Statutes; and

(*q*) generally, all matters relating to the University for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Senate, necessary.

Statutes—their framing, amendment, repeal and operation.

34. (*1*) The Statutes may be amended, repealed, or added to, by Statutes made by the Senate in the manner hereinafter provided.

(*2*) All Statutes framed by the Senate, form time to time, shall be submitted for sanction to the Chancellor and they shall not come into operation until the Chancellor has accorded his sanction thereto.

(*3*) The Senate may take into consideration the draft of a Statute either of its own motion or on a proposal by the Syndicate.

(*4*) The Senate before passing a Statute taken into consideration of its own motion and affecting the powers or duties of any officer or authority of the University shall ascertain and consider the views of the officer or authority concerned and of the Syndicate thereon.

Ordinances—their making and scope.

35. (*1*) Subject to the provisions of this Act and the Statutes, the Syndicate may frame Ordinances to provide for all or any of the following matters, namely :—

(*a*) the admission of students to the University;

(*b*) the courses of study to be laid down for all degrees and diplomas of the University;

(*c*) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University, and be eligible for degrees, diplomas, licences, titles and marks of honour; and the form of the certificate to be produced by a candidate for examination under section 37 and the conditions on which any such certificate may be granted;

(*d*) the recognition of colleges and hostels;

(*e*) [1]* * *;

(*f*) the residence and conduct of students;

(*g*) the number, qualifications and conditions of appointment of University Professors and University Teachers;

(*h*) the fees to be charged for courses of instruction in the University given by University professors and University teachers, for tutorial and supplementary instruction given by the University, upon admission into the University and for continuance therein, for admission to the examinations, degrees and diplomas of the University, for the registration of graduates and for other purposes of a like nature;

(*i*) the conditions of appointment, the mode of appointment and the duties of examiners;

(*j*) the conduct of examinations;

(*k*) the conduct of business of each Faculty and the appointment of the Dean of each Faculty;

(*l*) the duties and powers of the Boards and committees to be appointed by the University jointly with any other University or body;

[1] Clause (*e*) was repealed by Bom. 12 of 1928, s. 4.

(*m*) the discipline to be enforced in regard to the graduates and under-graduates in so far as they come within the jurisdiction of the University for purposes of study and examination;

(*n*) the extension of University teaching in any suitable centre within the Presidency by means of University Extension Lectures or otherwise;

(*o*) the rules to be observed and enforced by Colleges in respect of transfer of students;

(*p*) the functions of each Faculty;

(*q*) the fee (if any) to be paid for the entry or retention of a name on any register;

(*r*) the inspection of Colleges and the reports, returns and other information to be furnished by Colleges;

(*s*) the registers of students to be kept by Colleges;

(*t*) the appointment and duties of University Professors and University Teachers;

(*u*) the mode of execution of contracts or agreements for or on behalf of the University;

(*v*) generally, all matters which by this Act or by the Statutes, may be provided for by the Ordinances and all matters for which provision is in the opinion of the Syndicate, necessary for the exercise of the powers conferred, or the performance of the duties imposed on the Syndicate by this Act or the Statutes:

Provided that the Syndicate shall not arrive at any decision in regard to matters referred to in clauses (*b*), (*c*), (*d*), (*g*), (*i*), (*j*), (*n*) and (*o*) without inviting and receiving a report thereon from the Academic Council.

(*2*) All Ordinances made by the Syndicate shall, except as otherwise provided by this Act, have effect from such date as it may direct, but every Ordinance so made shall be laid on the table of the Senate as soon as may be and shall be considered by the Senate at its next meeting. The Senate shall have power, by a resolution passed by a majority of not less than two-thirds of the members present at such meeting, to cancel or refer for reconsideration any such Ordinance.

(*3*) The Vice-Chancellor shall, on the applicaton of not less than fifty members of the Senate, suspend the operation of any such Ordinance until the Senate has considered it as provided in sub-section (*2*).

Regulations —their making and scope.

36. (*1*) The Academic Council may make Regulations consistent with this Act and the Statutes and Ordinances to carry out the duties assigned to it thereunder and shall submit them to the Syndicate for approval.

(*2*) All Regulations when approved shall, except as otherwise provided by this Act, have effect from such date as the Academic Council may direct; but every Regulation so made shall be placed on the table of the Senate as soon as may be, and shall be considered by the Senate at its next meeting. The Senate shall have power, by a resolution passed by a majority of not less than two-thirds of the members present at such meeting, to cancel or refer for reconsideration any such Regulation.

(*3*) If the Syndicate does not approve of a Regulation, the Regulation shall, on a requisition by at least five members of the Syndicate, be referred to the Senate who shall thereupon have all the powers of the Syndicate in this connection. If the Regulation is accepted by the Senate the provisions of sub-section (*2*) shall not apply to it.

(*4*) The Vice-Chancellor shall, on the application of not less than fifty members of the Senate, suspend the operation of any such Regulation until the Senate has considered it as provided in sub-section (*2*) or sub-section (*3*).

CHAPTER XII.—AFFILIATED COLLEGES.

Certificates required of candidates for examination.

37. Save on the recommendation of the Syndicate, by special order of the Senate, and subject to any Statutes and Ordinances made in this behalf, no person shall be admitted as a candidate at any University examination other than [1][the Entrance Examination instituted under section 28A], unless he produces a certificate from a College to the effect that he has completed the course of instruction prescribed.

Existing Colleges.

38. Any College affiliated to the University before the passing of this Act may continue to exercise the rights conferred upon it by such affiliation, save in so far as such rights may be withdrawn, restricted or modified in the exercise of any power conferred by this Act.

Affiliation.

39. (*1*) A College applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Syndicate and the Academic Council—

(*a*) that the College is to be under the management of a regularly constituted governing body;

(*b*) that the qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction to be undertaken by the College;

(*c*) that the buildings in which the College is to be located are suitable, and that provision will be made, in conformity with the Statutes and Ordinances, for the residence in the College or in lodgings approved by the College, of students not residing with their parents or guardians, and for the supervision and physical welfare of students;

(*d*) that due provision has ben or will be made for a library;

(*e*) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the Statutes and Ordinances for imparting instruction in that branch of science in a properly equipped laboratory or museum;

(*f*) that due provision will, so far as circumstances may permit, be made for the residence of the Principal and some members of the teaching staff in or near the College or the place provided for the residence of students;

(*g*) that the financial resources of the College are such as to make due provision for its continued maintenance; and

(*h*) that the College rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing College in the same neighbourhood as would be injurious to the interests of education.

The application shall further contain an assurance that after the College is affiliated any transference of management and all changes in the teaching staff shall be forthwith reported to the Syndicate.

(*2*) On receipt of a letter of application under sub-section (*1*), the Syndicate shall—

(*a*) direct a local inquiry to be made by a competent person authorized by the Syndicate in this behalf;

(*b*) make such further inquiry as may appear to them to be necessary; and

(*c*) report to the Senate on the question whether the application should be granted or refused, either in whole or in part, embodying in such report the results of any inquiry under clauses (*a*) and (*b*).

And the Senate shall, after such further inquiry (if any) as may appear to them to be necessary, record their opinion on the matter.

[1] These words, figures and letter were substituted for the words "an examination for matriculation" by Bom. 49 of 1948, s. 34 (*3*).

(*3*) The Registrar shall submit the application and all proceedings, if any, of the Academic Council, the Syndicate and Senate relating thereto to [1][the Central Government], who, after such inquiry as may appear to them necessary, shall grant or refuse the application or any part thereof.

(*4*) Where the application or any part thereof is granted, the order of [1][the Central Government] shall specify the courses of instruction in respect of which the College is affiliated; and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(*5*) An application under sub-section (*1*) may be withdrawn at any time before an order is made under sub-section (*2*).

Extension of affiliation.

40. Where a College desires to add to the courses of instruction in respect of which it is affiliated the procedure prescribed by section 39 shall, so far as may be, be followed.

Inspection of Colleges and reports.

41. (*1*) Every College affiliated to the University, whether before or after the commencement of this Act, shall furnish such reports, returns and other information as the Syndicate, after consulting the Academic Council, may require to enable it to judge of the efficiency of the College.

(*2*) The Syndicate shall cause every such College to be inspected from time to time by one or more competent persons authorized by the Syndicate in this behalf.

(*3*) The Syndicate may call upon any College so inspected to take, within a specified period, such action as may appear to them to be necessary in respect of any of the matters referred to in sub-section (*1*) of section 39.

Disaffiliation.

42. (*1*) A member of the Syndicate who intends to move that the rights conferred on any College by affiliation be withdrawn in whole or in part, or modified, shall give notice of his motion and shall state in writing the grounds on which the motion is made.

(*2*) Before taking the said motion into consideration the Syndicate shall send a copy of the notice and written statement mentioned in sub-section (*1*) to the Principal concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the College will be considered by the Syndicate:

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(*3*) On receipt of the representation or on expiration of the period referred to in sub-section (*2*), the Syndicate, after considering the notice of motion, statement and representation and after such inspection by any competent person authorised by the Syndicate in this behalf, and such further inquiry as may appear to them to be necessary, and after consulting the Academic Council, shall make a report to the Senate.

(*4*) On receipt of the report under sub-section (*3*), the Senate shall after such further inquiry (if any) as may appear to them to be necessary record their opinion in the matter.

(*5*) The Registrar shall submit the proposal and all proceedings, if any, of the Academic Council, the Syndicate and Senate relating thereto to [1][the Central

[1] The words "the Central Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Government] who after such further inquiry (if any) as may appear to them to be necessary, shall make such order as the circumstances may, in their opinion, require.

(*6*) Where by an order made under sub-section (*5*) the rights conferred by affiliation are withdrawn in whole or in part, or modified the grounds for such withdrawal or modification shall be stated in the order.

CHAPTER XIII.—HONORARY FELLOWS.

Honorary Fellows.

43. (*1*) The Chancellor may nominate any person to be an Honorary Fellow for life who is eminent for his attainments in any branch of learning, or is an eminent benefactor of the University, or is distinguished for services rendered to the cause of education generally.

(*2*) Notwithstanding anything contained in this Act any person appointed to be an Honorary Fellow under section 13 of the Indian Universites Act, 1904, shall continue to be an Honorary Fellow for life, and shall be deemed to have been so appointed under this Act. VIII of 1904.

(*3*) A person shall not be debarred from appointment as Fellow, member of the Syndicate, member of the Academic Council or other office under this Act, merely on the ground of being an Honorary Fellow.

CHAPTER XIV.—TRANSITORY PROVISIONS.

Syndicate first to make the Statutes, Ordinances and Regulations.

44. (*1*) Notwithstanding anything contained in this Act, the first Statutes, Ordinances and Regulations under this Act shall be framed by the Syndicate constituted under the Acts repealed by this Act (in this section referred to as "the present Syndicate") within such time before the date of coming into operation of this Act as [1][the Central Government] may fix in this behalf, and on approval by the Chancellor, shall be deemed to have been duly made under this Act.

(*2*) If the present Syndicate fails to frame the Statutes, Ordinances and Regulations referred to in sub-section (*1*) within the time therein mentioned [1][the Central Government] may frame such Statutes, Ordinances and Regulations and the Statutes, Ordinances and Regulations so framed shall be deemed to have been made under this Act.

(*3*) Till the Senate is constituted as provided in this Act, the Senate and other University bodies constituted under the Acts repealed by this Act and existing on the date on which this Act comes into operation and all officers of the University shall continue in office.

(*4*) Until the various University bodies other than the Senate are duly constituted under this Act, all their duties (except that of framing statutes, ordinances and regulations) shall be performed by one or more committees appointed by the Chancellor who shall also frame rules for the proper working of those committees.

(*5*) If any difficulty arises as to the first constitution or reconstitution of any authority of the University after the commencement of this Act, or otherwise in first giving effect to the provisions of this Act, [1][the Central Government], as occasion may require, may by order do anything which appears to them necessary for the purpose of removing the difficulty.

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[1] The words "the Central Government" were substituted for the words "Government" by the Adaptation of Indian Laws Order in Council.

45. (*1*) The Vice-Chancellor shall, after the Senate is constituted under this Act, divide by lot the first fellows elected, and nominated under Part II (A) and (B) of sub-section (*1*) of section 13 into five equal groups as far as possible, under each of the said heads, the order of the groups being also determined by lot. Elected and nominated Fellows to retire by rotation.

(*2*) Subject to the other provisions of this Act the fellows in the first, second third, fourth and fifth of the said groups shall hold office for one, two, three, four or five years respectively

(*3*) Fellows who have vacated their office under this section shall be eligible for re-election, and re-nomination.

[1][(*4*) Nothing contained in sub-sections (*1*), (*2*) and (*3*) shall apply or shall be deemed to have applied in the case of Fellows elected by the [2][Bombay Legislative Assembly] under entry (*vii*) under the heading II-Ordinary (A) in sub-section (*1*) of section 13.]

46. (*1*) The Vice-Chancellor shall, after the Syndicate is constituted under this Act, divide the members of the Syndicate elected under clauses (*d*) and (*e*) of sub-section (*1*) of section 20 into three equal groups, as far as possible under each of the heads, the order of the groups being also determined by lot. Elected members of the Syndicate to retire by rotation.

(*2*) Subject to the other provisions of this Act, the members of the Syndicate in the first, second and third of the said groups shall hold office for one, two or three years respectively.

(*3*) Members of the Syndicate who have vacated their office under this section shall be eligible for re-election.

CHAPTER XV—GENERAL.

47. (*1*) If any question arises regarding the interpretation of any provision of this Act or of any statute, ordinance or regulation, or as to whether any person has been duly elected or appointed as, or is entitled to be a member of any authority or other body of the University, the matter may be referred to the Chancellor, and shall be so referred if ten fellows so require. The Chancellor shall, after taking such advice as he deems necessary, decide the question, and his decision shall be final. Interpretation in case of doubt.

(*2*) Nothing in this section shall be deemed to affect in any way the existing jurisdiction of the High Court of Bombay.

48. Every election to any authority of the University under this Act shall be made according to the system of proportional representation by means of the single transferable vote in such manner as may be prescribed by Statutes. Elections to be by proportional representation.

[3][**48A.** When any vacancy occurs in the office of a Fellow or member of any authority of the University before the expiry of the term office of such Fellow or member, the vacancy shall be filled up as soon as conveniently may be by the election, nomination or appointment, as the case may be, of a Fellow or member who shall hold office so long only as the Fellow or member in whose place he has been elected, nominated or appointed would have held it, if the vacancy had not occurred : Casual vacancies.

[1] This sub-section was inserted by Bom. 15 of 1930, s. 7.
[2] The words "Bombay Legislative Assembly" were substituted for the words "Legislative Council of the Governor of Bombay" by the Adaptation of Indian Laws Order in Council.
[3] This section was inserted by Bom. 11 of 1944 read with Bom. 6 of 1948, s. 2.

Provided that nothwithstanding anything contained in section 13, if the vacancy be of a Fellow and occurs within six months preceding the date on which the term of office of the Fellow expires the vacancy shall not be filled, if the Fellow be an elected Fellow.]

Proceedings not invalidated by vacancy.

49. No act or proceeding of any authority or other body of the University shall be invalid by reason only of any vacancy in the body doing or passing it or by reason of any want of qualification by or invalidity in the election or appointment of any *de facto* member of the body whether present or absent.

Pension or Provident Fund.

50. The University shall establish for the benefit of its officers, teachers and other servants such pension or provident fund as it may deem fit in such manner and subject to such conditions as may be prescribed by the Senate by Statutes.

Passing of property and rights to the University as reconstituted.

51. All property, all rights of whatever kind used, enjoyed or possessed by, and all interests of whatever kind owned by, or vested in, or held in trust by, or for the University of Bombay as constituted under the Acts repealed by this Act as well as all liabilities legally subsisting against the said University shall pass to the University as constituted under this Act.

Repeal.

52. The enactments specified in the Schedule shall be repealed to the extent specified in the fourth column thereof:

Provided that—

(*a*) this repeal shall not affect the validity of anything already done under any enactment hereby repealed ; and

(*b*) the appointments of the Registrar and all other officers and servants of the University, and of Examiners, validly made under the Acts hereby repealed and subsisting on the date on which this Act comes into operation, shall be deemed to have been validly made under and for the purposes of this Act, and the Registrar and such officers, servants and examiners shall continue to hold office and to act, subject to the conditions governing the tenure of their office or employment, except in so far as such conditions may be altered by competent authority.

SCHEDULE.

ENACTMENTS REPEALED.

(Section 52.)

Acts of the Governor General in Council.

Year.	Number.	Short title.	Extent of repeal.
857	XXII	The Bombay University Act, 1857	So much as has not already been repealed.
904	VIII	The Indian Universities Act, 1904	[1] The whole Act.

[1] These words were substituted by Bom. 20 of 1930, s. 4.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1929.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. [*Omitted.*]
3. Amendment of section 13 of Act XVI of 1908.
4. Amendment of section 21 of Act XVI of 1908.
5. Amendment of section 22 of Act XVI of 1908.
6. Amendment of section 36 of Act XVI of 1908.
7. Amendment of section 51 of Act XVI of 1908.
8. Amendment of section 54 of Act XVI of 1908.
9. Amendment of section 55 of Act XVI of 1908.
10. Amendment of section 57 of Act XVI of 1908.
11. Amendment of section 69 of Act XVI of 1908.
12. Amendment of section 89 of Act XVI of 1908.

BOMBAY ACT No. V OF 1929.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1929.]

[*22nd May 1929.*]

Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay in manner hereinafter appearing; and whereas the previous sanction of the Governor General required by section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1929. Short title.

2. [3]* * *.

3. In section 13 of the said Act, Amendment of section 13 of Act XVI of 1908.

(*1*) sub-sections (*1*) and (*2*) shall be repealed; and

(*2*) after the word "Sub-Registrars" the words "and Inspectors of Registration offices" shall be inserted.

4. To sub-section (*2*) of section 21 of the said Act the following shall be added, namely :— Amendment of section 21 of Act XVI of 1908.

"In all city surveyed areas in the Bombay Presidency, houses and lands shall also be described by their cadastral survey numbers as in the city survey maps and records."

5. In sub-section (*2*) of section 22 of the said Act for the word "Save" the words "Except in the case of city surveyed areas in the Bombay Presidency and except" shall be inserted. Amendment of section 22 of Act XVI of 1908.

6. In section 36 of the said Act for the words "may in his discretion" the words "in his discretion, may, upon receipt of the prescribed fee, issue, or may" shall be substituted; and after the word "issue" a comma shall be inserted. Amendment of section 36 of Act XVI of 1908.

7. In sub-section (*2*) of section 51 of the said Act after the figures "89" the words and figures "sub-sections (*2*) and (*4*)" shall be inserted. Amendment of section 51 of Act XVI of 1908.

8. In section 54 of the said Act after the word "books" where it occurs for the second time the words "and there shall also be prepared current indexes of the contents of the copies filed under sub-sections (*1*) and (*3*) of section 89" shall be inserted. Amendment of section 54 of Act XVI of 1908.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1929, Part V, p. 8; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1929, Vol. XXV.

[2] *See* Central Acts.

[3] The proviso which added to section 8 of the Indian Registration Act, 1908, by this Act was omitted by the daptation of Indian Laws Supplementary Order in Council.

Amendment of section 55 of Act XVI of 1908.

9. In section 55 of the said Act,

(*a*) for sub-section (*1*) the following shall be substituted, namely :—

" (*1*) six such indexes shall be made in all registration offices and shall be named, respectively, Index No. I, Index No. I-A, Index No. II, Index No. II-A, Index No. III and Index No. IV ; "

(*b*) after sub-section (*2*) the following sub-section shall be inserted, namely :—

" (*2A*) Index No. I-A shall contain the names including the father's name, or, in the case of persons usually described by their mother's name, the mother's name and the places of residence of all persons executing, and of all persons claiming under, the documents of which copies are filed under sub-section (*1*) or (*3*) of section 89 ; "

(*c*) after sub-section (*3*) the following sub-section shall be inserted, namely :—

" (*3A*) Index No. II-A shall contain such particulars mentioned in section 21 as the Inspector-General may, from time to time, prescribe in this behalf in regard to every copy filed under sub-section (*1*) or (*3*) of section 89 ; "

(*d*) for the words " and additions " wherever they occur the words " including the father's name, or, in the case of persons usually described by their mother's name, the mother's name, and the places of residence " shall be substituted.

Amendment of section 57 of Act XVI of 1908.

10. In sub-section (*1*) of section 57 of the said Act after the words and figures " Book No. I " the following words and figures shall be inserted, namely :—

" and, so long as they are preserved, the copies filed under sub-sections (*1*) and (*3*) of section 89 and the indexes relating to such copies."

Amendment of section 69 of Act XVI of 1908.

11. In clause (*h*) of sub-section (*1*) of section 69 of the said Act, after the figures " I " and " II " the figures " I-A " and " II-A " respectively shall be inserted.

Amendment of section 89 of Act XVI of 1908.

12. In sub-sections (*1*) and (*3*) of section 89 of the said Act for the words and figure " Book No. I " the word " office " shall be substituted.

THE BOMBAY MATERNITY BENEFIT ACT, 1929.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent and operation.
3. Definitions.
4. Employment of or work by women in factories prohibited during certain period.
5. Right to payment of maternity benefit.
6. Procedure regarding payment of maternity benefit.
7. Payment of maternity benefit in case of a woman's death.
8. No notice of dismissal to be given to a woman during period of maternity benefit.
9. Forfeiture of maternity benefit.
10. Penalty for contravention of the Act by an employer.
11. Penalty for contravention of the Act by a woman.
12. Cognisance of offences.
13. Limitation of prosecutions.
14. Rules.
15. Copies of this Act and rules thereunder to be exhibited.

BOMBAY ACT No. VII OF 1929.[1]

[THE BOMBAY MATERNITY BENEFIT ACT, 1929.]

[*23rd May 1929.*]

Amended by Bom. 5 of 1934.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in factories some time before and some time after confinement and to provide for the payment of maternity benefit to them in the manner hereinafter provided; and Whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

1. This Act may be called the Bombay Maternity Benefit Act, 1929. Short title.

2. (*1*) This Act shall apply in the first instance to the Bombay Suburban District and the cities of Bombay, Ahmedabad, Viramgam, Surat, Broach, Jalgaon, Sholapur, Belgaum, Amalner and Karachi. [2][The Provincial Government] may from time to time, by notification in the [3][*Official Gazette*] extend* this Act to such other places as it thinks fit. Extent and operation.

(*2*) It shall come into operation on the first day of July 1929.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "employer" includes an occupier of a factory as defined in the [4]Indian Factories Act, 1911, and the manager of a factory. XII of 1911.

(*b*) the expressions "employ", "employed", "factory", and "inspector of factories" shall have the same meanings as are respectively assigned to them under the [4]Indian Factories Act, 1911. XII of 1911.

(*c*) "maternity benefit" means the amount of money payable under the provisions of this Act to a woman employed in a factory.

[5][(*d*) "wages" includes the money value of any earned grain concession, and any money paid to cover high cost of living but does not include a bonus given for regular attendance, or any deduction or payment made on account of fines.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1928, Part V, p. 15; for Report of the Select Committee, see *ibid.*, 1928, Part V, p. 132; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1928, Vol. XXIII and 1929, Vol. XXV.

[2] The words "The Provincial Government" were substituted for the words "The Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] See now the Factories Act, 1948 (63 of 1948).

[5] Clause (*d*) was inserted by Bom. 5 of 1934, s. 2.

* This Act was extended to the Districts of East and West Khandesh, Sholapur, Dharwar, Thana and Kaira and to the City of Poona with effect from the 1st July 1931 (*Vide* Political Department, Notification No. 8178, dated the 26th May 1931, published in the *Bombay Government Gazette*, 1931, Part I, p. 1335).

Employment of or work by women in factories prohibited during certain period.

4. After this Act comes into operation—

(*1*) no employer shall knowingly employ a woman in any factory during the four weeks immediately following the day of her delivery; and

(*2*) no woman shall work in any factory during the four weeks immediately following the day of her delivery.

Right to payment of maternity benefit.

5. (*1*) Subject to the provisions of this Act, every woman employed in a factory shall be entitled to the payment of maternity benefit at the rate of eight annas a day [1][in the cities of Bombay, Ahmedabad and Karachi, and elsewhere at the rate of her average daily wage calculated to the nearest quarter of an anna on the total wages earned during a period of three months immediately preceding the date on which she gives notice under sub-section (*1*) of section 6, or at the rate of eight annas a day, whichever is less] for the actual days of her absence for the period immediately preceding her confinement and for the four weeks immediately following her confinement as mentioned in sub-section (*2*):

Provided that a woman shall not be entitled to maternity benefit unless she has been employed in the factory of the employer from whom she claims maternity benefit for a period of not less than [2][nine] months immediately preceding the date on which she [3][gives notice] under sub-section (*1*) of section 6.

(*2*) The maximum period for which any woman shall be entitled to the payment of maternity benefit shall be [4][eight] weeks, that is to say, [4][four] weeks up to and including the day of her delivery and four weeks immediately following that day. If a woman dies during this period the maternity benefit shall be payable only for the days up to and including the day of her death.

Procedure regarding payment of maternity benefit.

6. (*1*) Any woman employed in a factory and entitled to maternity benefit. under the provisions of this Act, who is pregnant may, on any day, give notice in writing to her employer stating that she expects to be confined within one month next following, that her maternity benefit may be paid to her, and that she will not work in any employment during the period for which she received maternity benefit.

(*2*) The employer shall thereupon permit such woman to absent herself from the factory from the following day until four weeks after the day of her delivery.

[5](*3*) Maternity benefit shall be paid by the employer to the woman entitled thereto after taking her wishes into consideration in any one of the following three ways, namely:—

(*i*) for four weeks—within forty-eight hours of the production of a certificate signed by a registered medical practitioner certifying that the woman is expected to be confined within one month next following, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child; or

(*ii*) for the period up to and including the day of delivery—within forty-eight hours of the production of a certified extract from a birth register stating that the woman has given birth to a child, and for the remainder of the total period for which she is entitled to maternity benefit under sub-section (*2*) of section 5—punctually four weeks after the production of such certified extract from a birth register; or

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[1] These words, figures and brackets were inserted by Bom. 5 of 1934, s. 3.
[2] The word "nine" was substituted for the word "six", *ibid.*, s. 3.
[3] The words "gives notice" were substituted for the words "notifies her intention", *ibid.*
[4] The words "eight" and "four" were substituted for the words "seven" and "three", *ibid.*
[5] This sub-section was substituted for the original sub-section (*3*), *ibid*, s. 4.

(*iii*) for the entire period for which the woman is entitled to maternity benefit under sub-section (*2*) of section 5—within forty-eight hours of the production within six weeks of her delivery of a certified extract from a birth register stating that she has given birth to a child;

Provided that no woman shall be entitled to any maternity benefit or any part thereof the payment of which is dependent upon the production of a certified extract from a birth register under the provisions of this sub-section unless such extract has been produced within six months of the day of her delivery.

Payment of maternity benefit in case of a woman's death.

7. If a woman entitled to maternity benefit under this Act dies during the period for which she is entitled to maternity benefit the employer shall pay the amount of maternity benefit due, if the newly born child survives her, to the person who undertakes the care of the child; and if the child does not survive her to her legal representative.

No notice of dismissal to be given to a woman during period of maternity benefit.

8. When a woman absents herself from work in accordance with the provisions of this Act it shall not be lawful for her employer to give her notice of dismissal during such absence or on such a day that the notice will expire during such absence.

Forfeiture of maternity benefit.

9. If a woman works in any factory after she has been permitted by her employer to a absent herself under the provisions of section 6 she shall forfeit her claim to the payment of the maternity benefit to which she is entitled.

Penalty for contravention of the Act by an employer.

10. If any employer contravenes the provisions of this Act he shall, on conviction, be liable to a fine which may extend to five hundred rupees.

Penalty for contravention of the Act by a woman.

11. If any woman works in any factory within four weeks of the date of her delivery she shall be liable ,on conviction, to a fine not exceeding ten rupees.

Cognisance of offences.

12. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the inspector of factories.

(*2*) No court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence against this Act or any rules thereunder.

Limitation of prosecutions.

13. No Court shall take cognisance of any offence against this Act or any rule thereunder unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed.

Rules.

14. (*1*) The [1][Provincial Government] may make [2]rules for the purpose of carrying into effect the provisions of this Act.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] For Rules under this section, *see* Government Notification in the G. D. No. 1066, dated the 2nd August 1929, published in the *Bombay Government Gazette*, 1929, Part I, pp. 1703-1705.

For amendments in the above Rules, *see*

Political and Reforms Department Notification No. 9699-II, dated the 1st June 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 1340.

Political and Reforms Department Notification No. 9721, dated the 7th December 1933, published in the *Bombay Government Gazette*, 1933, Part I, p. 2876.

Political and Reforms Department Notification No. 9721, dated the 29th January 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 245.

Political and Reforms Department Notification No. 8574-II, dated the 20th September 1934, published in the *Bombay Government Gazette*, 1934, Part I, p. 2096.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

[1](a) the preparation and maintenance of a muster roll or register or a combined muster roll and register and the particulars to be entered in such muster roll, register or combined muster roll and register or in the register kept or deemed to have been kept under section 35 of the [2]Indian Factories Act, 1911; XII of 1911.

(b) the inspection of factories for the purposes of this Act by inspectors of factories;

(c) the exercise of powers and the performance of duties by inspectors of factories for the purposes of this Act;

(d) the method of payment of maternity benefit in so far as provision has not been made in this Act; and

(e) any other matter for which no provision has been made in this Act and for which provision is, in the opinion of the [3][Provincial Government], necessary.

(3) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(4) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [4][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [5][by a Resolution in which both the Chambers concur]. If any rule is modified the [3][Provincial Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Copies of this Act and rules thereunder to be exhibited.

15. [6][An abstract] of the provisions of this Act and the rules thereunder in the local vernacular shall be exhibited in a conspicuous [7][manner] by the employer in every [8][part of a] factory in which women are employed.

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[1] Clause (a) was substituted for the original clause (a) by Bom. 5 of 1934, s. 5.

[2] *See* now the Factories Act, 1948 (63 of 1948).

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[4] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[5] These words were inserted, *ibid.*

[6] The words "An abstract" were substituted for the words "A copy" by Bom. 5 of 1934, s. 6.

[7] The word "manner" was substituted for the word "place", *ibid.*

[8] The words "part of a" were inserted, *ibid.*

THE BOMBAY BORSTAL SCHOOLS ACT, 1929.

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BOMBAY ACT No. XVIII OF 1929.[1]

[THE BOMBAY BORSTAL SCHOOLS ACT, 1929.]

[*25th November 1929.*]

Amended by Bom. 10 of 1932.
" " " 3 of 1934.
" " " 18 of 1935.
" " " 2 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 39 of 1948.

An Act to provide for the establishment of Borstal Schools in the Presidency of Bombay.

WHEREAS it is expedient to provide for the establishment of Borstal schools in the Presidency of Bombay; and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

& 6 Geo. V, c. 61.

1. This Act may be called the Bombay Borstal Schools Act, 1929. Short title.

2. (*1*) This Act shall apply to the whole of the Presidency of Bombay. Extent and commencement.

(*2*) It shall come into operation on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint in this behalf.

3. In this Act, unless there is anything repugnant in the subject or context :— Definitions.

(*a*) "Borstal school" means a place in which young offenders, whilst detained in pursuanc of this Act, are given such industrial training and other instruction and are subjected to such disciplinary and moral influences as will conduce to their reformation and the prevention of crime;

(*b*) "Inspector-General" means the Inspector-General of Prisons and includes any officer appointed by the [2][Provincial Government] to perform all or any of the duties imposed by this Act on the Inspector-General;

(*c*) "prescribed" means prescribed by rules made under this Act.

4. (*1*) For the purposes of this Act the [2][Provincial Government] may establish one or more Borstal schools. Establishment of Borstal schools.

(*2*) For every Borstal school, a visiting committee shall be appointed in such manner as may be prescribed.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1929, Part V, p. 129; for Report of the Select Committee, *see ibid.*, 1929, Part V, p. 143, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1929, Vols. XXVI and XXVII.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

Application of the Prisons Act, 1894, and the Prisoners Act, 1900.

5. Subject to any alterations, adaptations and exceptions made by this Act and the rules framed under it, the [1]Prisons Act, 1894, and the [1]Prisoners Act, 1900, and the rules framed thereunder shall apply in the case of every Borstal school established under this Act as if it were a prison and the inmates prisoners. IX of 1894. III of 1900.

Court may pass order for detention in a Borstal school.

6. When an offender is found guilty of an offence for which he is liable to be sentenced to transportation or imprisonment, or is liable to imprisonment for failure to furnish security under Chapter VIII of the Code of Criminal Procedure, 1898, whether any previous conviction is proved against him or not, and it appears to the Court— V of 1898.

(*a*) that the offender is not less than sixteen or, in any district or place in which the Bombay Children Act 1924, is not in operation less than fifteen, nor more than twenty-one years of age; and Bom. XIII of 1924.

(*b*) that by reason of his criminal habits or tendencies or association with persons of bad character it is expedient that he should be subject to detention for such term and under such instruction and discipline as appears most conducive to his reformation,

it shall be lawful for the Court, if empowered in this behalf, to pass, in lieu of a sentence of transportation or imprisonment, or of an order of imprisonment under section 123 of the Code of Criminal Procedure, 1898, an order for the detention of the offender in a Borstal school [2][established under this Act or subject to the provisions of section 13-A, in a Borstal school in any other province in British India] for such term, not being less than [3][three] years nor more than five years, as the Court subject to rules made under this Act, thinks fit: V of 1898.

Provided that before passing such an order the Court shall give an opportunity to the parents or guardians of the said offender to be heard and shall consider any report or representation which may be made to it as to the suitability of the case for treatment in [4][such Borstal school], and shall be satisfied that the character, state of health and mental condition of the offender and the other circumstances of the case, are such that the offender is likely to profit by such instruction and discipline as aforesaid.

Power of Provincial Government to exempt.

7. The [5][Provincial Government] may, by rules made under this Act, direct that any class or classes of persons specified in such rules shall not be ordered to be detained in a Borstal school.

Courts empowered to pass order for detention.

8. The powers conferred on Courts by this Act shall be exercised only by the High Court, a Court of Session, a District Magistrate, a sub-divisional Magistrate, a salaried Presidency Magistrate, or a Magistrate of the first class and may be exercised by such Courts whether the case comes before them originally, or on appeal or in revision.

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[1] *See* Central Acts.

[2] These words, figures and letter was inserted by Bom. 2 of 1936, s. 2 (*1*).

[3] The word "three" was substituted for the word "two" by Bom. 17 of 1935, s. 2.

[4] The words "such Borstal school" were substituted for the words "a Borstal school" by Bom. 2 of 1936, s. 2 (*2*).

[5] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Procedure when Magistrate is not empowered to pass an order under this Act.

9. (*1*) When any Magistrate not empowered to pass an order for detention under this Act is of the opinion that an offender who has been found guilty by him or who has failed to furnish the security which the Magistrate has ordered him to furnish under Chapter VIII of the Code of Criminal Procedure, 1898, is a proper person to be detained in a Borstal school, he may, without passing any order, record such opinion and submit his proceedings and forward the offender to the District Magistrate or the Chief Presidency Magistrate, as the case may be, to whom he is subordinate.

V of 1898.

(*2*) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted may transfer the proceedings to any Magistrate subordinate to him competent to pass an order under this Act, or, as the case may be, to a salaried Presidency Magistrate.

(*3*) The District Magistrate or Chief Presidency Magistrate to whom the proceedings are so submitted or any Magistrate to whom the proceedings are so transferred may make such further enquiry (if any) as he may think fit and may pass such order for the detention of the offender in a Borstal school, or such other sentence or order, as he might have passed if such offender had originally been brought before or tried by him.

Limitation on powers conferred by section 6.

10. Any offender detained in a Borstal school for failure to furnish security when ordered to do so under section 106 or section 118 of the Code of Criminal Procedure, 1898, shall be released on furnishing such security or on the passing of an order under section 124 of the said Code.

V of 1898.

Transfer from prison to Borstal school.

[1]**11.** (*1*) If the Inspector-General is satisfied that a person undergoing transportation or imprisonment in consequence of a sentence [2][passed under any law or undergoing imprisonment under an order made under section 123 of the Code of Criminal Procedure, 1898, for failure to give security] being within the limits of age within which persons may be ordered to be detained in a Borstal school, by reason of his criminal habits or tendencies, or association with persons of bad character, might with advantage be detained in a Borstal school, the Inspector-General may by order in writing direct such person to be transferred from prison to a Borstal school [3][established under this Act or subject to the provisions of section 13A, to a Borstal school in any other province in British India] and to be detained in such school, in lieu of the unexpired residue of his sentence, [4][or of the period of imprisonment which he is liable to undergo for failure to give security, as the case may be,] for such period as together with the period of transportation or imprisonment already undergone will not exceed the maximum period for which such person could have been ordered to be detained by a Court under section 6 :

V of 1898.

Provided that the Inspector-General shall not, without the previous sanction of [5][the Provincial Government], direct such person to be detained in a Borstal school for a period which including the period of imprisonment or transportation undergone exceeds the period of imprisonment or transportation to which such person has been sentenced [4][or the period of imprisonment which he is liable to undergo for failure to give security, as the case may be].

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[1] This section was substituted for the original s. 11 by Bom. 3 of 1934, s. 2.
[2] These words were substituted for the original by Bom. 39 of 1948, s. 2.
[3] These words, figures and letter were inserted by Bom. 2 of 1936, s. 3.
[4] These words were inserted by Bom. 39 of 1948, s. 2.
[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) A person transferred to a Borstal school under sub-section (*1*) shall upon transfer to such school be deemed to be an offender ordered to be detained by a Court under the provisions of section 6 and the provisions of the Act shall apply to such person accordingly.

Transfer of incorrigibles, etc., to prison.

12. (*1*) Where an offender detained in a Borstal school escapes, or is reported to the [1][Provincial Government] by the Inspector-General to be incorrigible or to exercise [2][or to be likely to exercise] a bad influence on the other inmates of the school, [3][or to be more than twenty years of age], [4][or where a licence granted under section 14 is revoked by the Provincial Government under clause (ii) of the proviso to sub-section (*1*) of section 15 or is, in the opinion of the Provincial Government, otherwise unsuitable for training in a Borstal school], the [1][Provincial Government] may commute the unexpired residue of the term of detention to such term of imprisonment of either description as the [1][Provincial Government] may determine, but in no case exceeding the shorter of the following two periods :—

(*a*) the unexpired residue of the term of detention, or

(*b*) the maximum period of imprisonment provided by law for the offence of which the offender was found guilty or the failure to give security, as the case may be, in consequence of which the offender was ordered to be detained in a Borstal school [5][or ordered to be transferred to and detained in such school by the Inspector-General].

(*2*) Such offender may be confined in any prison within the Bombay Presidency by warrant under the hand of a Secretary to [6][the Provincial Government] and effect shall be given to such warrant and the sentence of imprisonment passed upon such offender shall be executed in the same manner as if such person had been sentenced by a competent court of criminal jurisdiction.

Provincial Government to determine the Borstal school in which a person shall be detained and may order removal.

13. (*1*) Every offender ordered to be detained in a Borstal school shall be detained in such Borstal school as the [1][Provincial Government] may, by general or special order, or in the prescribed manner, appoint for the reception of persons so ordered to be detained :

Provided that, if accommodation in a Borstal school is not immediately available for such offender, he may be detained in a special ward, or such other suitable part of a prison as the [1][Provincial Government] may direct until he can be sent to a Borstal school. The period of detention so undergone shall be treated as detention in a Borstal school.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council", by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 39 of 1948, s. 3.

[3] The words "or to be more than twenty years of age", were inserted by Bom. 10 of 1932, s. 2.

[4] This portion was inserted by Bom. 39 of 1948, s. 3.

[5] These words were added by Bom. 3 of 1934, s. 3.

[6] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(2) The [1][Provincial Government] may order the removal of any offender from any one Borstal school to any other Borstal school, [2][established under this Act or to a Borstal school in any other province in British India] [2][or in an acceding state] provided that the whole period of his detention in a Borstal school shall not be increased by such removal.

Power to order detention in, or removal of offenders to, a Borstal school in another province.

[4][13A. (1) No order for the detention in or transfer or removal to a Borstal school in any other province in British India [3][or in an acceding State] shall be passed except with the previous concurrence of the officer in charge of such Borstal school and unless the [5][Provincial Government] of the said province, [3][or the Government of the said Acceding State] under any law in force therein or by general or special order, has consented, or is empowered, to receive such offender for detention in such Borstal school;

Power to accept transfers of offenders from another province to a Borstal school in the Presidency.

(2) The officer in charge of a Borstal school established under this Act may, subject to the rules made in this behalf, give effect to any order for the detention therein of any person passed by any authority under any enactment in force in any other province in British India [3][or in an Acceding State]. A person detained in such Borstal school under this provision shall be deemed to be an offender ordered to be detained under the provisions of section 6 and the provisions of this Act shall apply to such person accordingly.

Removal of person detained to civil hospital in Province for medical treatment.

[6][13B. (1) If an offender detained in a Borstal school is suffering from any illness and the Inspector-General is satisfied that it is not possible to render to him proper medical care or treatment in the school, the Inspector-General may provide for the removal of such offender to any civil hospital in the Province for the purpose of undergoing medical treatment and for his return to the school after such treatment is undergone.

(2) The period during which an offender is absent from a Borstal school under sub-section (1) shall, for the purposes of computing his term of detention in the school, be deemed to be part of that detention.]

Power to release on licence.

14. (1) Subject to the prescribed conditions, the Inspector-General may on the recommendation of the Visiting Committee, at any time after the expiration of six months from the commencement of the detention of an offender in a Borstal school, if he is satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, discharge him from the Borstal school and grant him a written licence in the prescribed form and on the prescribed conditions permitting him to live under the supervision and authority of such—

(a) [7][servant of the Crown],

(b) secular institution,

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 2 of 1936, s. 4.

[3] These words were inserted by Bom. 39 of 1948, ss. 4 and 5.

[4] Section 13A was inserted by Bom. 2 of 1936, s. 5.

[5] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[6] This section was inserted by Bom. 39 of 1948, s. 6.

[7] The words "servant of the Crown" were substituted for the words "officer of Government" by the Adaptation of Indian Laws Order in Council.

(*c*) religious society, or

(*d*) responsible person, as may be approved by the Inspector-General and willing to take charge of the offender.

[1][(*1A*) The Inspector-General may, subject to the prescribed conditions, discharge any offender who had been previously granted a licence but whose licence was subsequently revoked under section 15 and grant him a fresh written licence and in such case the provisions of this Act shall apply as if such fresh licence had been granted under sub-section (*1*).]

(*2*) A licence under this section shall be in force until the expiry of the term for which the offender was ordered to be detained in a Borstal school, unless sooner revoked.

(*3*) The period during which an offender is absent from a Borstal school during the continuance of a licence granted to him under this section shall, for the purposes of computing his term of detention in such school, be deemed to be part of that detention.

Revocation of licence.

15. (*1*) Subject to the prescribed conditions, the Inspector-General may at any time [2][and in the case of a request made by] the institution, society or person, under whose supervision and authority the offender has by licence been permitted to live [3][shall, after considering the report of the Investigating Committee submitted to him under section 17B] revoke a licence granted under section 14, and upon such revocation the offender shall be detained in a Borstal school until the expiry of the term for which he was ordered to be detained in such school:

[4][Provided that, if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, the Inspector-General shall forward the report of the Investigating Committee to the Provincial Government and the Provincial Government may—

(*i*) direct the Inspector-General to revoke the licence as provided in this sub-section, or

(*ii*) itself revoke the licence and commute the unexpired residue of the term of detention of the offender to a term of imprisonment as provided in section 12].

(*2*) If an offender removes himself from the supervision of the institution, society or person under which he was by licence permitted to live, his licence shall be deemed to have been revoked from the date on which he has so removed himself.

[5][(*3*) On the revocation of a licence under sub-section (*2*), the period beginning from the date on which the offender removed himself from supervision till the date on which he is arrested shall, subject to the provisions of section 17, be excluded in computing the period for which he has been ordered to be detained in a Borstal school.

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[1] This sub-section was inserted by Bom. 39 of 1948, s. 7.

[2] These words were substituted for the original, *ibid.*, s. 8.

[3] These words were inserted, *ibid.*

[4] This proviso was added, *ibid.*

[5] This sub-section was inserted, *ibid.*

Subsequent supervision.

16. (*1*) When the Inspector-General and the Visiting Committee report that the conduct [1][or progress] of any offender detained in a Borstal school has been such that it is expedient that he shall remain under supervision for a further period after the end of the term of detention, the [2][Provincial Government] may direct that he shall, on the expiration of the term of his detention, remain for a further period not exceeding one year under the supervision of such authority, society or person as the Inspector-General, subject to rules made under this Act, may direct.

[3][(*2*) The Provincial Government may, after considering the report of the Investigating Committee forwarded to it under section 17B, direct that the offender who is under supervision in accordance with sub-section (*1*) shall—

(*a*) again be detained in a Borstal school for such period as it may think fit, or

(*b*) if the Investigating Committee report that the conduct of the offender has been such that he is unfit for detention in a Borstal school, undergo imprisonment of such description and for such period as it may direct:

Provided that the total period of supervision, detention and imprisonment under this section shall not exceed one year.

(*3*) The provisions of sub-section (*2*) of section 12 shall apply when an offender is directed to undergo imprisonment under sub-section (*2*) of this section.]

Period of detention.

17. No person shall be detained in a Borstal school after he has, in the opinion of the [2][Provincial Government], attained the age of twenty-three years, or, if in any particular case the [2][Provincial Government] so directs, after he has attained the age of twenty-five years.

Discharge from Borstal school.

[4][**17A.** The [2][Provincial Government] may at any time order any person detained in a Borstal school to be discharged from such school, either absolutely or on such conditions as may be imposed.]

Investigating Committee to investigate into complaints against offenders discharged on probation, etc.

[5][**17B.** (*1*) The Provincial Government may, by notification in the *Official Gazette*, appoint an Investigating Committee.

(*2*) The Inspector-General may, by an order in writing, require any offender—

(*a*) who is discharged on licence under section 14 or who is placed under supervision under section 16, and who is reported by the authority, institution, society or person under whose supervision he has been permitted to live or has been directed to remain, to be of bad behaviour, or

(*b*) who has broken any of the conditions of the licence granted to him under section 14,

to appear before the Investigating Committee within such time and at such place as may be specified in the order.

(*3*) The Investigating Committee shall examine the offender and after making such inquiry as it thinks fit into his conduct submit its report to the Inspector General. If the Investigating Committee report that the conduct of such offender has been such that he is unfit for further detention in a Borstal school and in every case where an offender had been directed to remain under supervision under section 16, the Inspector-General shall forward a copy of the report of the Investigating Committee to the Provincial Government.

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[1] These words were inserted by Bom. 39 of 1948, s. 9.

[2] The words "Provincial Government" were substituted for the words "Governor in Council by the Adaptation of Indian Laws Order in Council.

[3] This sub-section was substituted by Bom. 39 of 1948, s. 9.

[4] Section 17A was inserted by Bom. 3 of 1934, s. 4.

[5] This section was inserted by Bom. 39 of 1948, s. 10.

(*4*) The offender shall, during the period of the proceedings under this section, be detained in a Borstal school or in a special ward, or such other suitable part of a prison as the Inspector-General may by general or special order direct.

(*5*) If the offender fails to appear before the Investigating Committee in accordance with the order made under sub-section (*2*) or escapes while detained under sub-section (*4*), he may, on the requisition of the Inspector-General or any officer authorized by him in this behalf, be arrested by any officer of police without warrant and without an order of a Magistrate and brought before the Investigating Committee or sent under custody to the place of detention under sub-section (*4*), as the case may be.

(*6*) The period beginning from the date on which the order under sub-section (*2*) is passed by the Inspector-General and ending with the day on which an order is passed by the Inspector-General under section 15 or by the Provincial Government under section 15 or 16, as the case may be, shall be excluded in computing the total term of his detention in a Borstal school or in computing the period of one year referred to in section 16.]

Arrest of offender escaping from Borstal school, or escaping from supervision.

18. Any offender who, in contravention of the provisions of this Act, has escaped from a Borstal school [1][or has escaped from a civil hospital to which he was removed for treatment under section 13B] or has escaped from the supervision of any authority, institution, society or person under whose supervision he has been directed to remain, or has been permitted to live by licence under section 14, [2][or has committed a breach of any of the conditions imposed under section 17A] may be arrested by any officer of Police without warrant and without the order of a Magistrate and sent back to the Borstal school [1][or to the civil hospital] or to such authority, institution, society or person, as the case may be.

Rules.

19. (*1*) The [3][Provincial Government] may make rules for the regulation and management of any Borstal school and for the carrying into effect of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or determine—

(*a*) the control and management of Borstal schools established under this Act;

(*b*) the appointment, powers and duties of officials in such schools;

(*c*) the constitution, powers and duties of visiting committees;

(*d*) the classification, control, discipline, training instruction and treatment of offenders ordered to be detained in a Borstal school and for the temporary detention of such offenders until arrangements can be made for sending them to such school;

(*e*) the regulation of visits to, and communication with, offenders detained in such school;

(*f*) the restriction or prohibition of the supply to, or possession by, offenders detained in such school of any specified articles or kinds of articles;

(*g*) the period for which offenders or any class or classes of offenders may, within the limits fixed by this Act, be ordered to be detained in such school;

(*h*) the class or classes (if any) of offenders who shall not be ordered to be detained in such school;

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[1] These words were inserted by Bom. 39 of 1948, s. 11.

[2] These words, figures and letter were inserted, by Bom. 3 of 1934, s. 5.

[3] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[1][(*hh*) the removal of offenders to Borstal schools in other provinces in British India and the reception and detention in a Borstal school established under this Act of offenders transferred from other provinces.]

(*i*) the form and conditions of licences granted under section 14;

(*j*) the supervision of offenders after the expiration of the term of their detention;

(*k*) the transfer of incorrigible offenders from a Borstal school to prison;

[2][(*l*) the conditions on which an offender may be discharged under section 17A;]

[3][(*m*) the constitution, procedure, powers and duties of the Investigating Committee.]

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [4][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [5][by a resolution in which both Chambers concur.] If any rule is modified the [6][Provincial Government] may accept the modification and reissue the rule accordingly or may rescind the rule.

Removal of disqualification.

20. The [6][Provincial Government] may, on the recommendation of the Inspector-General and the Visiting Committee, or otherwise remove any disqualification incurred by an offender ordered to be detained in a Borstal school on account of such detention.

Appeal or revision.

V of 1898.

21. For the purposes of appeal and revision under the Code of Criminal Procedure, 1898, an order of detention under section 6 of this Act shall be deemed to be a sentence of imprisonment for the same period:

[7]* * * *.

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[1] Clause (*hh*) was inserted by Bom. 2 of 1936, s. 6.

[2] Clause (*l*) was added by Bom. 3 of 1934, s. 6.

[3] Clause (*m*) was inserted by Bom. 39 of 1948, s. 12.

[4] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[5] These words were inserted, *ibid.*

[6] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[7] The proviso was deleted by Bom. 39 of 1948, s. 13.

THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1930.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 12 of Act IX of 1887.
3. Amendment of the Second Schedule to Act IX of 1887.

BOMBAY ACT No. VI OF 1930.[1]

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1930.]

[*9th May 1930.*]

An Act further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay.

IX of 1887. WHEREAS it is expedient further to amend the [2]Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Provincial Small Cause Courts (Bombay Amendment) Act, 1930. Short title.

IX of 1887. **2.** In sub-section (*3*) of section 12 of the [2]Provincial Small Cause Courts Act, 1887, hereinafter called "the said Act" for the word "twenty" the word "fifty" shall be substituted. Amendment of section 12 of Act IX of 1887.

3. In the Second Schedule to the said Act the following amendments shall be made, namely :— Amendment of the Second Schedule to Act IX of 1887.

(*1*) to clause (4) after the words "such property" the following shall be added, namely :—

"but not including a suit for ejectment where—

(*a*) The property has been let under a lease made by a written instrument, and

(*b*) The Court of Small Causes would be competent to take cognizance of a suit for the rent of the property, and

(*c*) The only substantial issue arising for decision is as to whether the lease has determined by efflux of the time limited thereby or has been determined by a notice in accordance with clause (*h*) of section 111 of the Transfer of Property Act, 1882";

IV of 1882.

(*2*) in clause (18) for the words "relating to a trust" the words "to enforce a trust" shall be substituted;

(*3*) to clause (20) after the words "Code of Civil Procedure" the words "in respect of any immovable property" shall be added;

(*4*) to clause (21) after the word "attachment" the words "of any immovable property" and after the word "transfer" the words "of any such property" shall, respectively, be added; and

(*5*) in clause (31) for the words "and a suit for the profits on immovable property belonging to the Plaintiff which have been wrongfully received by the Defendant" the words "but not including a suit for mesne profits" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Part V, pp. 35-38; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vol. XXVIII.

[2] Central Acts.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1930.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 69 of Act XVI of 1908.
3. Insertion of new Part XI-A in Act XVI of 1908.

BOMBAY ACT No. XVII OF 1930.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1930.]

[*4th September 1930.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1930.

Amendment of section 69 of Act XVI of 1908.

2. After clause (*g*) of sub-section (*1*) of section 69 of the [2][Indian Registration Act, 1908, hereinafter called the said Act, the following clause shall be inserted, namely:— VI of 1908.

"(*gg*) regulating the procedure for transmitting documents for being photographed and the serial numbering, binding and preservation of the photographic prints and negatives."

Insertion of new Part XI-A in Act XVI of 1908.

3. After Part XI of the said Act, the following shall be inserted, namely:—

"PART XI-A.

OF THE COPYING OF DOCUMENTS BY MEANS OF PHOTOGRAPHY.

Application of this part.

70-A. This part shall apply to the areas only in respect of which a notification is issued by the [3][Provincial Government] under section 70-C.

Definition.

70-B. For the purposes of this Part 'Photo-Registrar' means any person appointed by the [3][Provincial Government] to perform the duties of Photo-Registrar under this Part:

[4]* * * * *

Documents may be photographed in areas notified by Provincial Government.

70-C. (*1*) The [3][Provincial Government] may, by notification in the [5][*Official Gazette*], direct that in any district or sub-district specified in the notification copies of documents admitted to registration under this Act shall be made by means of photography.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Pt. V, p. 180; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vol. XXIX.

[2] See Central Acts.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] The proviso was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(2) On the issue of such notification it shall be translated into the vernacular of the district and shall be posted in a conspicuous place at the Registration offices affected by the notification.

Application of Act to areas notified under section 70-C.

70-D. In any district or sub-district in respect of which a notification has been issued under section 70-C the provisions of this Act shall, for the purposes of this Part, be subject to the following modifications, namely :—

(1) (a) Every document admitted to registration under section 35 or section 41 shall be carefully marked with an identification stamp and the serial number of the document on every page.

(b) It shall then be transmitted by the registering officer to the Photo-Registrar, who shall cause, each side of each page of such document together with all stamps, endorsements, seals, signatures, thumb-impressions and certificates appearing thereon to be photographed without subtraction or alteration. He may for this purpose cut or untie, without breaking any seals, the thread or ribbon wherewith the pages of the document are sewn together in order to separate the pages of the document, and, as soon as the document has been photographed, he shall rebind the document exactly as before and if he has cut the thread or ribbon shall seal it over the joint with his seal :

Provided that before transmission of the document to the Photo-Registrar the party presenting the document may require the registering officer to have it copied by hand under section 52 on payment of an additional copying fee.

(c) There shall then be prepared and preserved the negative and at least one photographic print and to each such negative and print the Photo-Registrar shall fix his signature and seal in token of the exact correspondence of the copy to the original document, as admitted for registration.

(d) One set of such prints arranged in the order of their serial numbers shall be made up into books and sewn or bound together. To each such book the Registrar or Sub-Registrar shall prefix a certificate of the serial numbers it contains, and the books shall then be preserved in the records of the Sub-Registrar. The negatives shall be preserved in such suitable place as the Inspector-General may prescribe.

(2) All words and expressions used in the Act with reference to the making of copies of documents by hand or the entering or filing of documents or memorandum in books provided under section 16 shall, so far as may be necessary, be construed as referring to the making of such copies by means of photography or the entering or filing of documents or memoranda in books made up of copies prepared by means of photography.

(3) Where this Part applies the sections mentioned below shall be deemed to be modified as follows :—

(a) In section 19 the words 'and also by a true copy' shall be omitted ;

(b) sub-section (4) of section 21 shall be omitted ;

(c) the words 'according to the order of its admission' occurring in clause (c) of sub-section (1) of section 52 shall be omitted ;

(d) section 53 shall be omitted ;

(e) in sub-section (1) of section 60 the words 'and page' shall be omitted;

(f) sub-section (1) of section 61 shall be omitted ;

(g) in sub-section (1) of section 62,—

(i) for the word 'transcribed' the word 'copied' shall be substituted ; and

(ii) for the words and figures 'copy referred to in section 19' the words 'photograph of the original' shall be substituted."

THE BOMBAY LOCAL FUND AUDIT ACT, 1930.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent.
3. Definitions.
4. Liability of local authorities to submit their accounts for audit.
5. Accounts to be submitted for audit at such period or periods as may be required.
6. Power of auditor to require production of documents and attendance of persons concerned, etc.
7. Penalty for disobeying requisition under section 6.
8. Audit report to be sent to certain officers and bodies as Provincial Government may direct.
9. Audit report what to contain
10. Local authority to remedy defects: Procedure to be followed after report of the Examiner under section 8.
11. Commissioner to surcharge or charge illegal payment or loss caused by gross negligence or misconduct.
12. Recovery of surcharges and charges how made.
13. Application against order of surcharge or charge.
14. Expenses in respect of requisitions of auditors to be payable out of local fund.
15. Rules.
16. Amendments in Bom. III of 1901 Bom. VI of 1923 and Bom. XVIII of 1925—(*Not printed*).

BOMBAY ACT No. XXV OF 1930.[1]

[THE BOMBAY LOCAL FUND AUDIT ACT, 1930.]

[*17th September 1930.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 12 of 1949.

An Act to provide for and regulatethe audit of the local funds under the management or control of certain local authorities in the Bombay Presidency except the City of Bombay.

WHEREAS it is expedient to provide for and regulate the audit of the local funds under the management or control of certain local authorities in the Bombay Presidency except the City of Bombay in manner hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. V, c. 61.

1. This Act may be called the Bombay Local Fund Audit Act, 1930. Short title.

2. This Act extends to the whole of the Bombay Presidency except the City of Bombay. Extent.

3. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*a*) "Auditor" means the Examiner or any other person empowered by [2][the Provincial Government] to perform the functions of an auditor under this Act.

[3][(*aa*) 'Chairman' means the president or chairman of the local authority and includes in the case of a dissolved or superseded local authority, the person or persons lawfully appointed to exercise the powers and perform the duties of such local authority;

(*ab*) 'Detailed audit' means an audit of accounts for the whole year;]

(*b*) "Examiner" means the Examiner of Local Fund Accounts and includes the Assistant Examiner of Local Fund Accounts.

(*c*) "Local authority" means a local authority as defined in clause (26) of section 3 of the Bombay General Clauses Act, 1904, and includes a school board constituted under the [4]Bombay Primary Educaton Act, 1923. Bom. I of 1904. Bom. IV of 1923.

(*d*) "Local Fund" means any fund to the control or management of which a local authority is legally entitled and includes the proceeds of any cess, rate, duty or tax which such authority is legally entitled to impose, and any property vested in such authority.

[5][(*e*) 'Special audit' means an audit of accounts pertaining to a specified item or series of items requiring thorough examination.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1930, Pt. V, pp. 45-49; for Report of Select Committee, *see ibid* 1930, Pt. V, pp. 116-121; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1930, Vols. XXVIII and XXIX.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These clauses were inserted by Bom. 12 of 1949, s. 2 (*1*).

[4] See now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

[5] This clause was added, *ibid*, s. 2 (*2*).

Liability of local authorities to submit their accounts for audit.

4. The accounts of any local authority whose accounts are declared by [1][the Provincial Government], by a notification in the [2][*Official Gazette*], to be subject to audit under this Act shall, notwithstanding anything contained in any enactment by which such local authority is constituted or in any rules made thereunder be subject to audit in all respects in the manner provided by or under this Act.

Accounts to be submitted for audit at such period or periods as may be required.

5. [3][The Chairman] of every local authority, whose accounts are declared under section 4 to be subject to audit under this Act, shall present or cause to be presented for audit all accounts of its local fund in the manner and form prescribed by rules under section 15 to the auditor yearly or at such period or periods as may be required by the Commisioner.

Power of auditor to require production of documents and attendance of persons concerned, etc.

6. (*1*) For the purpose of any audit under this Act, an auditor may—

[4][(*a*) require in writing the production at the head office of the local authority of such vouchers, statements, returns, correspondence, notes or other documents in relation to the accounts as he may think fit ;]

(*b*) require in writing any salaried servant of the local authority accountable for, or having the custody or control of [5][such vouchers, statements, returns, correspondence, notes or other documents] or any person having directly, indirectly, by himself or his partner, any share or interest in any contract with or under the local authority to appear in person before him at the head office of the local authority, and answer any question ;

(*c*) in the event of an explanation being required from the [6] * chairman or other honorary officer or member of a local authority, in writing invite such person to meet him at the head office of the local authority and shall in writing specify the point on which his explanation is required.

(*2*) The auditor may, in any requisition or invitation made under sub-section (*1*), fix a reasonable period, not being less than three days [7][in the case of a District Local Board or of a Municipality constituted under the Bombay Municipal Boroughs Act, 1925], within which the said requisition or invitation shall be complied with. Bom. XVIII of 1925.

(*3*) The auditor shall give to the local authority not less than two weeks' notice in writing of the date on which he proposes to commence the audit.

[8][Provided that, notwithstanding anything contained in this sub-section, the auditor may, for special reasons which shall be recorded in writing, give shorter notice than two weeks or commence a special or detailed audit on the authority of the Commissioner or the Examiner without giving notice.]

Penalty for disobeying requisition under section 6.

7. (*1*) Any person who wilfully neglects or refuses to comply with any requisition lawfully made upon him under clause (*a*) or clause (*b*) of sub-section (*1*) of section 6 shall be liable, on conviction before a Magistrate, to a fine which may extend to one hundred rupees :

Provided that no proceedings under this sction shall be instituted except on the written sanction of the Commissioner :

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] These words were substituted for the original by Bom. 12 of 1949, s. 2.

[4] This clause was substituted for the original *ibid.*, s. 4.

[5] These words were substituted, *ibid.*

[6] The word "president" was deleted, *ibid.*

[7] These words were inserted, *ibid.*

[8] This proviso was added, *ibid.*

Provided further that before giving such sanction the Commissioner shall call upon the person against whom the proceedings are to be instituted to show cause why the sanction should not be given.

(2) No court inferior to that of a Magistrate of the first class shall try any offence against this Act.

Audit report to be sent to certain officers and bodies as Provincial Government may direct.

8. [1][As soon as practicable after the completion of the audit, but not later than three months thereafter,] the Examiner shall prepare a report on the accounts audited and examined and shall send such report to the local authority concerned and copies thereof to such officers and bodies as [2][the Provincial Government] may direct.

Audit report what to contain.

9. The Examiner shall include in his report a statement of—

(a) every payment which appears to him to be contrary to law,

(b) the amount of any deficiency or loss which appears to have been caused by the gross negligence or misconduct of any person,

(c) the amount of any sum received which ought to have been but is not brought into account by any person, and

(d) any material impropriety or irregularity which he may observe in the accounts other than those mentioned in clauses (a), (b) and (c) above.

Local authority to remedy defects: Procedure to be followed after report of the Examiner under section 8.

10. [3][(1) On receipt of a report under section 8, the chairman shall remedy any defects or irregularities which may have been pointed out in the report, and shall place the report, together with a statement of the action taken or proposed to be taken thereon and an explanation in regard thereto before a meeting of the local authority. He shall also, within three months of the receipt of the report, send to the Examiner intimation of his having remedied the defects or irregularities, if any, pointed out in the report, or shall, within the said period, supply the Examiner any further explanation in regard to such defects or irregularities as the local authority may wish to give.]

(2) On receipt of such intimation or explanation the Examiner may, in respect of all or any of the matters discussed in his report,

(a) accept the intimation or explanation given by the [4]* * chairman and withdraw the objection, or

(b) direct that the matter be re-investigated at the next audit or at any earlier date, or

(c) hold that the defects or irregularities pointed out in the report or any of them have not been removed or remedied.

(3) The Examiner shall send a report of his decision to the Commissioner within one month of the date of the receipt by him of the intimation or explanation of the [4]* * chairman referred to in sub-section (1) or in the event of the [4]* * chairman failing to give such intimation or explanation, on the expiry of the period of three months mentioned in the said sub-section and shall forward a copy of such report to [5][the chairman]. If the Examiner holds that any defects or irregularities have not been removed or remedied he shall state in the report whether, in his opinion, the defects or irregularities can be regularised and if so, by what method;

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[1] These words were substituted, by Bom. 12 of 1949, s. 4.

[2] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

[3] This sub-section was substituted for the original by Bom. 12 of 1949, s. 6.

[4] The words "president or" were deleted, *ibid.*

[5] These words were substituted for the original, *ibid.*

and if they do not admit of being regularised, whether they can be condoned and, if so, by what authority. He shall also state whether the amounts to which the defects or irregularities relate should, in his opinion, be surcharged or charged :

Provided that in the case of reports on the accounts of school boards and of such local authorities as are specially notified by [1][the Provincial Government] in this behalf the report referred to in this sub-section shall be submitted by the Examiner to such officer, being the head of a department, as [1][the Provincial Government] may direct. Such officer shall take such action as may be necessary regarding any defects or irregularities falling under clause (*c*) of sub-section (*2*) which may have been brought to notice in the report. If he is of the opinion that the amounts to which any such defects or irregularities relate should be surcharged or charged, he shall forward the report of the Commissioner together with his recommendation in that behalf.

(*4*) The local authority concerned shall publish in its next administration report, such portions of the report under section 8 as deal with defects and irregularities falling under clause (*c*) of sub-section (*2*), together with the explanation thereof, if any, given under sub-section (*1*) and the final report of the Examiner thereon under sub-section (*3*). Such report of defects and irregularities, explanation and final report shall be open to the inspection of the public at the office of the local authority for a period of one month from the date of their receipt and shall also be published in the [2][regional language] of the district in any newspaper circulating in the district selected by the local authority within one month of the receipt by it of the copy of the report sent to the Commissioner under sub-section (*3*).

(*5*) If [3][the chairman] fails to give the intimation or explanation referred to in sub-section (*1*) within the period therein mentioned the Commissioner may, at the instance of the Examiner, publish in the [2][regional language] of the district the whole of the Examiner's report under section 8, together with any observations which the Commissioner may make thereon, in any newspaper circulating in the district which the Commissioner may select and the cost of such publication shall be [3][forthwith paid by the local authority concerned. If such cost is not so paid, the Commissioner may make an order directing any person, who for the time being has custody of any moneys on behalf of the local authority, as its officer, treasurer, banker or otherwise, to pay the amount of such cost from such moneys as he may have in his hands or may from time to time receive, and such person shall be bound to obey such order. Every payment made pursuant to such order shall be sufficient discharge to such person from all liability to the local authority in respect of any amount paid by him out of the moneys of the local authority so held by him.]

(*6*) Nothing in this section or in section 9 shall preclude the Examiner at any time from bringing to the notice of the Commissioner, for such action as the Commissioner may consider necessary, any information which appears to the Examiner to support a presumption of criminal misappropriation or fraud [4][or which in his opinion deserves special attention or immediate investigation].

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the word "vernacular" by Bom. 12 of 1949, s. 6.

[3] These words were substituted for the original, *ibid.*

[4] These words were added, *ibid.*

11. (*1*) The Commissioner may, after considering the recommendation of the Examiner or of any head of a department under the proviso to sub-section (*3*) of section 10, as the case may be, and after taking the explanation of the person concerned, or making such further inquiry, as he may consider necessary, disallow any item which appears to him to be contrary to law and surcharge the same on the person making, or authorizing the making of, the illegal payment; and may charge against any person responsible therefor the amount of any deficiency or loss caused by the gross negligence or misconduct of that person, or, any sum received which ought to have been but is not brought into account by that person and shall, in every such case, certify the amount due from such person: Commissioner to surcharge or charge illegal payment or loss caused by gross negligence or misconduct.

Provided that no order of surcharge or charge shall be made under this Act in respect of any item included, or, which ought to have been included in, but was omitted from, any accounts for any period prior to the 1st April 1930.

(*2*) The Commissioner shall state in writing the reasons for his decision in respect of every surcharge or charge and shall send by registered post a copy thereof to the person against whom it is made.

(*3*) If a person to whom a copy of the Commissioner's decision is sent under sub-section (2) refuses to take delivery thereof he shall be deemed to have duly received it on the day on which it was refused by him.

12. (*1*) Every sum certified by the Commissioner to be due from any person under sub-section (*1*) of section 11 shall be paid by such person into the treasury or bank in which the funds of the local authority concerned are lodged, within one month from the receipt by him of the decision of the Commissioner, unless within that time such person has applied to the Court or to [1][the Provincial Government] as provided in section 13. Recovery of surcharges and charges how made.

(*2*) The said sum, if not duly paid, or, if an application has been made to the Court or to [1][the Provincial Government] against the decision of the Commissioner as provided in sub-section (*1*) of section 13, such sum as the Court or [1][the Provincial Government] shall declare to be due, shall be recoverable, on an application made by the Collector to the Court, in the same way as an amount decreed by the Court in favour of the Collector.

13. (*1*) Any person aggrieved by any order of surcharge or charge made by the Commissioner under sub-sectin (*1*) of section 11 may, within one month from the receipt by him of the decision of the Commissioner, either— Application against order of surcharge or charge.

(*a*) apply to the District Court to set aside such order; and the Court, after taking such evidence as it thinks necessary, may confirm, modify or remit such surcharge or charge and make such orders as to costs as it thinks roper in the circumstances; or

(*b*) in lieu of such application apply to [1][the Provincial Government] which shall pass such orders thereon as it thinks fit.

(*2*) Pending disposal of the application all proceedings on the certificate shall be stayed if the person aggrieved makes out a *prima facie* case for a stay order.

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[1] The words "the Provincial Government" were substituted for the words "the Government" by the Adaptation of Indian Laws Order in Council.

Expenses in respect of requisitions of auditors to be payable out of local fund.

14. All expenses incurred by a local authority in complying with any requisition of an auditor under sub-section (*1*) of section 6 shall be payable out of its local fund.

Rules.

15. (*1*) [1][The Provincial Government] may make rules, not inconsistent with this Act, for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner and form in which the accounts of a local authority, whose accounts are subject to audit under this Act, shall be kept and presented ;

(*b*) the powers and duties of auditors and the procedure to be followed by them for conducting an audit and the times at which such audit may be conducted; and

(*c*) the manner in which all matters required to be published under this Act shall be published.

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [2][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [3][by a Resolution in which both Chambers of the Legislature concur]. If any rule is modified, [4][the Provincial Government] may accept the modification and re-issue the rule accordingly, or, may rescind the rule.

16. [*Amendments made by section 16 have been incorporated in the principal Acts.*]

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[1] The words "the Provincial Government" were substituted for the word "the Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "before each Chamber of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[3] These words were inserted, *ibid.*

[4] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

BOMBAY ACT No. V OF 1931.[1]

[THE CATTLE-TRESPASS (BOMBAY AMENDMENT) ACT, 1931.]

[*23rd May 1931.*]

An Act further to amend the Cattle-trespass Act, 1871, in its application to the Presidency of Bombay.

WHEREAS it is expedient further to amend the [2]Cattle-trespass Act, 1871, in its application to the Presidency of Bombay, in manner hereinafter appearing; It is hereby enacted as follows:—

of 1871.

1. This Act may be called the Cattle-trespass (Bombay Amendment) Act, 1931. Short title.

2. In the proviso to section 14 of the [2]Cattle-trespass Act, 1871, for the words "Magistrate of the District" the words "officer authorised to sell them by public auction" shall be substituted. Amendment of section 14 of Act I of 1871.

I of 1871.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1931, Part V, p. 43; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1931, Vol. XXX.

[2] *See* Central Acts.

BOMBAY ACT No. I OF 1932.[1]

[THE TOBACCO DUTY (TOWN OF BOMBAY) AMENDMENT ACT, 1932.]

[*30th March 1932.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend the Tobacco Duty (Town of Bombay) Act, 1857.

IV of 1857. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient to amend the Tobacco Duty (Town of Bombay) Act 1857, for the purpose hereinafter appearing; And whereas the previous sanction of the Governor required by section 80C of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Tobacco Duty (Town of Bombay) Amendment Act, 1932.

Commencement and duration.

2. This Act shall come into force on the 19th day of March 1932 and shall remain in force for 10 years in the first instance, but [2]Government may extend it for a further period not exceeding 10 years by a notification in the [3][*Official Gazette*].

3 and **4.** [*Amendments of sections 2, 8 and 9 of Act 4 of 1857—The amendments have been incorporated in the principal Act.*]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Part V, p. 38; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXIV.

[2] "Government" means so long as the Municipal duty is, by virtue of section 143 (2) of the Government of India Act, 1935, levied and collected by the Provincial Government, that Government and thereafter the Central Government.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

THE BOMBAY FINANCE ACT, 1932.

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[THE BOMBAY FINANCE ACT, 1932.]

[*30th March 1932.*]

Amended by Bom. 6 of 1932.
" " " 1 of 1933.
" " " 1 of 1934.
" " " 1 of 1935.
" " " 3 of 1936.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 7 of 1938.
" " " 4 of 1939.
" " " 17 of 1939.
" " " 1 of 1940.*
" " " 4 of 1941.*
" " " 6 of 1942.*
" " " 3 of 1943.*
" " " 4 of 1944.*
" " " 4 of 1945.*
" " " 9 of 1946.*
" " " 8 of 1947.
" " " 23 of 1948.
" " " 2 of 1949.

An Act to provide for the levy of a duty on consumption of electrical energy [2]* * * * [3]to amend the Court-fees Act, 1870, and the Indian Stamp Act, 1899, in their application to the Province of Bombay, to provide for the levy of a tax on immovable property in certain urban areas [4][to provide for the levy of a tax on advertisements in newspapers], and to amend the Bombay Entertainments Duty Act, 1923, and the Bombay Betting Tax Act, 1925].

VII of 1870. II of 1899. Bom. I of 1923. Bom. VI of 1925.

WHEREAS it is expedient to provide for the levy of a duty on consumption of electrical energy, [2] * * * * [5][to amend the [6]Court-fees Act, 1870, and the [6]Indian Stamp Act, 1899, in their application to the Province of Bombay, for the purposes hereinafter appearing, to provide for the levy of a tax on immovable property in certain urban areas, [7][to provide for the levy of a tax on advertisements

VII of 1870. II of 1899.

[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1932, Pt. V, pp. 30-34; for Report of the Select Committee *see ibid*, 1932, Part V., pp. 40-47,; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol XXXIV.

[2] The words " for the purposes of lights and fans "were deleted by Bom. 2 of 1949, s. 2.

[3] This portion was substituted for the original by Bom. 23 of 1948, s. 9.

[4] These words were inserted by Bom. 2 of 1949, s. 2.

[5] This portion was substituted for the original by Bom. 23 of 1948, s. 10.

[6] Central Acts.

[7] These words were inserted by Bom. 2 of 1949, s. 2.

*Sections 3 to 9 of Bom. 1 of 1940, sections 3, 4, 6 and 7 of Bom. 4 of 1941, section 3 and 5 of Bom. 6 of 1942, section 3 of Bom. 3 of 1943, Bom. 4 of 1944 and Bom. 4 of 1945, and section 3 to 8 of Bom. 9 of 1946 were re-enacted by Bom. 23 of 1948.

in newspapers] and to amend the Bombay Entertainments Duty Act, 1923, and the Bombay Betting Tax Act, 1925, for the purposes hereinafter appearing] ; It is hereby enacted as follows :— Bom. I of 1923. Bom. VI of 1925.

PART I.

Preliminary.

Short title.

1. This Act may be called the Bombay Finance Act, 1932.

Extent and commencement and duration.

2. (*1*) Except where it is otherwise provided in this Act, this Act extends to the whole of the Presidency of Bombay.

(*2*) It shall come into force on the 1st day of April 1932.

[1] * * * *

Savings.

[2][2A. The provisions of this Act shall be in addition to and not in derogation of the provisions of the Bombay Increase of Stamp Duties Act, 1943, and the Bombay Increase of Court-fees Act, 1943.] Bom. XIV of 1943. Bom. XV of 1943.

PART II.

Electricity Duty.

Extent of Part II.

3. This Part extends to the whole of the Presidencyof Bombay. [3]* * .

Definitions.

4. In this Part, unless there is anything repugnant in the subject or context—

(*a*) " consumer " means any person who is supplied with energy by a licence ;

(*b*) " energy " means electrical energy when generated, transmitted, supplied or used for any purpose except the transmission of a message ;

(*c*) " licence " means any person licensed under Part II of the [4]Indian Electricity Act, 1910 to supply energy and includes any person who has obtained the sanction of the [5][Provincial Government] under section 28 of that Act ; IX of 1910.

(*d*) " prescribed " means prescribed by rules made under this Part.

Duty on units of energy consumed.

5. There shall be levied and paid to the Government of Bombay, on the units of energy consumed [6] * * * excluding losses of energy in transmission and transformation, a duty (hereinafter referred to as " electricity duty ") at the rates specified in the First Schedule to this Part :

Provided that electricity duty shall not be leviable on the units of energy consumed [7][by any Government [8]* * * *] or by or in respect of any local authority, railway administration, tramway company, [9] * * * [10][or] institution [11]* specified in the Second Schedule to this Part, except to the extent specified therein.

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[1] Sub-section (3) was deleted by Bom. 23 of 1948, s. 11.

[2] Section 2A was inserted by Bom. 4 of 1945, s. 3, read with Bom. 23 of 1948, s. 7.

[3] The words " except Aden " were omitted by the Adaptation of Indian Laws Order in Council.

[4] Central Acts.

[5] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[6] The words " for the purpose of lights and fans " were deleted by Bom. 2 of 1949, s. 3.

[7] The words " by any Government or the Crown Representative " were substituted for the words " by Government " by the Adaptation of Indian Laws Order in Council.

[8] The words " or the Crown Representative " were omitted by pararaph 7 of the India (Adaptation of Existing Indian Laws) Order, 1947.

[9] The words " industrial undertaking " were deleted by Bom. 2 of 1949, s. 3.

[10] The words " or " was inserted by Bom. 4 of 1939, s. 3 (*1*)(*i*).

[11] The words " or class of persons " were deleted, *ibid*, s. 3 (*1*)(*ii*).

6. (*1*) Every licensee shall collect and pay to the Government at the time and in the manner prescribed, the proper electricity duty payable under this Part on the units of energy supplied by him to consumers. The duty so payable shall be a first charge on the amount recoverable by the licensee for the energy supplied by him and shall be a debt due by him to the Government: Payment of electricity duty.

Provided that where the licensee has been unable to recover his dues for the energy supplied by him, he shall not be liable to pay the duty in respect of the energy so supplied.

(*2*) Where any person fails or neglects to pay, at the time and in the manner prescribed, the amount of electricity duty due from him, the licensee may, without perjudice to the right of Government to recover the amount under section 9, and after giving not less than seven clear days' notice in writing to such person, cut off the supply of energy to such person; and he may, for that purpose, exercise the power conferred on a licensee by sub-section (*1*) of section 24 of the [1]Indian Electricity Act, 1910, for recovery of any charge or sum due in respect of energy supplied by him. IX of 1910.

(*3*) The licensee shall be entitled, for his cost of collection of the duty, to a rebate of such percentage as may be determined by the Government on the amount of the duty collected and paid by him under sub-section (*1*).

[2](*4*) Every person other than a licensee who generates energy for his own use shall pay to the Provincial Government at the time and in the manner prescribed the proper electricity duty payable under this Part on the units of energy consumed by him.

Nothing in this sub-section shall apply to any person who generates energy for the purpose of supplying it for the use of vehicles or vessels.]

7. Every licensee [3][and every other person who is liable to pay electricity duty under sub-section (*4*) of section 6] shall, unless he is exempt from payment of electricity duty under the proviso to section 5, keep books of account in the prescribed form and submit to the Government or to the prescribed officer returns in such form and at such times as may be prescribed, showing the units of energy supplied by him to each consumer or consumed by him, as the case may be, and the amount of the duty payable thereon and recovered or paid by him under section 6. Licensee to keep books of account and submit returns.

8. The Government may, by notification in the [4][*Official Gazette*], appoint inspecting officers to inspect the prescribed books of accounts [5][kept under section 7]. Such officers shall perform such duties and exercise such powers as may be prescribed for the purpose of carrying into effect the provisions of this Part and the rules made thereunder. Inspecting officers.

9. Any sum due on account of electricity duty, if not paid at the time and in the manner prescribed, shall be recoverable [6][either through a civil court or as an arrear of land revenue— Recoveries.

(*a*) if the sum was payable under sub-section (*1*) of section 6, either from the consumer, or, subject to the proviso to the said sub-section from the licensee, at the option of the Provincial Government, and

(*b*) if the sum was payable under sub-section (*4*) of section 6 from the person who generates energy for his own use.]

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[1] *See* Central Acts.

[2] This sub-section was inserted by Bom. 4 of 1939, s. 3 (*2*).

[3] These words were inserted, *ibid*, s. 3 (*3*).

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[5] These words and figure were substituted for the words "of licensees" by Bom. 4 of 1939, s. 3 (*4*).

[6] These words, brackets, letters and figures were substituted for the original, *ibid*, s. 3 (*5*).

Penalties.

10. If any person liable under section 7 to keep books of account or to submit returns fails to keep or submit the same in the manner prescribed or obstructs an inspector in the exercise of his powers and duties under this Part and the rules thereunder or contravenes any rule made under section 11, he shall, on conviction, be punishable with fine which may extend to fifty rupees.

Power to make rules.

11. (*1*) The Government may make [1]rules not inconsistent with the provisions of this Part, for the purpose of carrying into effect the provisions of this Part.

(*2*) In particular, and without prejudice to the generality of the forgoing power, such rules may—

(*a*) prescribe the time and manner of payment of the electricity duty under section 6 ;

(*b*) prescribe the form of the books of account to be kept and the times at which, the form in which and the officers to whom the returns required by section 7 shall be submitted ;

(*c*) prescribe the powers and duties of inspecting officers ; and

(*d*) provide for any other matter for which there is no provision or insufficient provision in this Part and for which provision is, in the opinion of the Government, necessary for giving effect to the provisions of this Part.

(*3*) The making of rules under this section shall be subject to the condition of previous publication. Such rules shall be laid [2][before each Chamber of the Provincial Legislature] for one month previous to the next session thereof and shall be liable to be rescinded or modified [3][by a Resolution in which both Chambers concur]. If any rule is modified, the Government may accept the modification and re-issue the rule accordingly or may rescind the rule.

FIRST SCHEDULE.

(*See* section 5.)

For lights and fans.

[4][(*a*) In respect of all premises not falling under clause (*b*) and not exempted under the proviso to section 5 and the Second Schedule.	(1) In the City of Bombay.	(*i*) For each unit of energy consumed for the use of a cinema house or threatre—	¾ anna per unit.
		(*ii*) For each unit of energy consumed for any other purpose—	
		(*a*) where the total consumption per month does not exceed 12 units..	1 anna per unit.
		(*b*) where the total consumption per month exceeds 12 units. ..	1¼ annas per unit.
	(2) In other areas. ..	Such rate for each unit of energy consumed, not exceeding the rates prescribed in clause (*1*), as the Provincial Government may by notification in the Official Gazette specify.]	

[1] For Rules made uder this sections *see* Government Notification in the R. D., No. 8836/28, dated 14th September 1932, published in the *Bombay Government Gazette*, 1932, Pt. I, pp. 1254-57.

[2] The words " before each Chamber of the Provincial Legislature " were substituted for the words " on the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council,

[3] The words " by a Resolution in which both Chambers concur " were inserted, *ibid*,

[4] This clause was substituted for the original by Bom. 4 of 1939, s. 3(*6*) (*i*).

(*b*) In respect of all premises not exempted under the proviso to section 5 and the Second Schedule, when flat rates are charged by the licensee, for—

	[1][Such rate as may be prescribed by Government not exceeding annas per mensem.]
every lamp of less than 30 watts	[2][5
every lamp of 30 watts or more but less than 40 ..	$7\frac{1}{2}$
every lamp of 40 watts or more but less than 60 ..	10
every lamp of 60 watts or more but not exceeding 100	15
and for every additional 15 watts or fraction thereof in excess of 100 in any lamp	$2\frac{1}{2}$]

[3]* * * * *

[4][*For any other purpose.*

For every two units of energy or fraction thereof consumed for any purpose other than lights and fans ...	$\frac{1}{4}$ anna.]

SECOND SCHEDULE.

(*See* section 5, proviso.)

Exemptions.

(*1*) [5][The Crown], save in respect of premises used for residential purposes;

of 0. (*2*) a railway administration as defined in clause (*6*) of section 3 of the [6][Indian Railways Act, 1890, save in respect of premises used for residential purposes;

(*3*) a local authority, save in respect of premises used for residential purposes;

(*4*) a tramway company, save in respect of premises used for residential and office purposes;

[7]* * * * * *

(*6*) a hospital or dispensary which is not maintained for private gain;

[8]* * * * * *

[9]* * * * * *

[10]* * * * * *

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[1] These words were substituted for the words "Annas per mensem" by Bom. 4 of 1939, s. 3 (*6*) (*ii*) (*a*).

[2] These figures were respectively substituted for the figures "2, 3, 4, 6 and 1", *ibid*, 3 (*6*) (*ii*) (*b*).

[3] The Explanation was delcted, *ibid*, s. 3 (*6*) (*ii*) (*c*).

[4] This portion was added by Bom. 2 of 1949, s. 4.

[5] The words "The Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[6] *See* Central Acts.

[7] Entry (*5*) was deleted by Bom. 2 of 1949, s. 5.

[8] The Exemption (7) was deleted by Bom. 4 of 1939, s. 3 (*7*) (*i*).

[9] The Explanation was deleted by Bom. 2 of 1949, s. 5.

[10] Explanation (*2*) was deleted by Bom. 4 of 1939, s. 3 (*7*) (*iii*).

PART III.

Court-fees.

Amendment of section 7 of Act VII of 1870.

12. In section 7 of the [1]Court-fees Act, 1870, in its application to the Presidency of Bombay, in this Part referred to as the said Act,— VII of 1870.

(*a*) to clause (*d*) of paragraph (*iv*) the words "or other consequential relief" shall be added;

(*b*) after the word "appeal" in paragraph (*iv*) the words "with a minimum fee of rupees five in the case of suits falling under clause (*c*)" shall be inserted; and

(*c*) in clauses (1), (2) and (3) of the proviso to paragraph (*v*) for the words "five", "ten" and "ten" the words "seven and half", "fifteen" and "fifteen" shall, respectively, be substituted.

Amendment of Schedule I to Act VII of 1870.

13. For articles 1, 8, 11, 12 and 12-A of, and the Table of rates of *ad valorem* fees in Schedule I to the said Act the following shall be substituted, namely :—

SCHEDULE I.

Ad Valorem Fees.

Number.	—	Proper fee.
1. Plaint, written statement pleading a set off or counter-claim or memorandum of appeal (not otherwise provided for in this Act) or of cross-objection presented to any Civil or Revenue Court except those mentioned in section 3.	When the amount or value of the subject-matter in dispute does not exceed five rupees.	Six annas.
	When such amount or value exceeds five rupees, for every five rupees, or part thereof, in excess of five rupees, up to one hundred rupees.	Six annas.
	When such amount or value exceeds one hundred rupees, for every ten rupees, or part thereof, in excess of one hundred rupees, up to one thousand rupees.	Twelve annas.
	When such amount or value exceeds one thousand rupees, for every one hundred rupees, or part thereof, in excess of one thousand rupees, up to five thousand rupees.	Five rupees.
	When such amount or value exceeds five thousand rupees, for every two hundred and fifty rupees, or part thereof, in excess of five thousand rupees, up to ten thousand rupees.	Fifteen rupees.

[1] See Central Acts.

Number.		—	Proper fee.
		When such amount or value exceeds ten thousand rupees, for every five hundred rupees, or part thereof, in excess of ten thousand rupees, up to twenty thousand rupees.	Twenty-two rupees and eight annas.
		When such amount or value exceeds twenty thousand rupees, for every one thousand rupees, or part thereof, in excess of twenty thousand rupees, up to thirty thousand rupees.	Thirty rupees.
		When such amount or value exceeds thirty thousand rupees, for every two thousand rupees, or part thereof, in excess of thirty thousand rupees, up to fifty thousand rupees.	Thirty rupees.
		When such amount or value exceeds fifty thousand rupees, for every five thousand rupees, or part thereof, in excess of fifty thousand rupees.	Thirty rupees.
		Provided that the maximum fee leviable on a plaint or memorandum of appeal shall be ten thousand rupees.	
II of 1899.	8. Copy of any document liable to stamp-duty under the [1]Indian Stamp Act, 1899, when left by any party to a suit or proceeding in place of the original withdrawn.	(*a*) When the stamp-duty chargeable on the original does not exceed one rupee.	The amount of the duty chargeable on the original.
		(*b*) In any other case ..	One rupee.
	11. Probate of a will or letters of administration with or without will annexed.	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one thousand rupees, on the part of the amount or value in excess of one thousand rupees, up to ten thousand rupees.	Two per centum.
		When the amount or value of the property in respect of which the grant of probate or letters is made exceeds ten thousand rupees, on the part of the amount or value in excess of ten thousand rupees, up to fifty thousand rupees.	Three per centum.
		When the amount or value of the property in respect of which the grant of probate or letters is made exceeds fifty thousand rupees, on the part of the amount or value in excess of fifty thousand rupees, up to one lakh of rupees.	Four per centum.

[1] See Central Acts.

Number.	—	Proper fee.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds one lakh of rupees, on the part of the amount or value in excess of one lakh of rupees, up to two lakhs of rupees.	Four and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs of rupees, on the part of the amount or value in excess of two lakhs of rupees, up to two lakhs and fifty thousand rupees.	Five per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds two lakhs and fifty thousand rupees, on the part of the amount or value in excess of two lakhs and fifty thousand rupees, up to three lakhs of rupees.	Five and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds three lakhs of rupees, on the part of the amount or value in excess of three lakhs of rupees, up to four lakhs of rupees.	Six per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds four lakhs of rupees, on the part of the amount or value in excess of four lakhs of rupees, up to five lakhs of rupees.	Six and a half per centum.
	When the amount or value of the property in respect of which the grant of probate or letters is made exceeds five lakhs of rupees, on the part of the amount or value in excess of five lakhs of rupees :	Seven per centum.
	Provided that when, after the grant of a certificate under Part X of the [1]Indian Succession Act, 1925, or under Bombay Regulation VIII of 1827, in respect of any property included in an estate, a grant of probate or letters of administration is made in respect of the same estate, the fee payable in respect of the latter grant shall be reduced by the amount of the fee paid in respect of the former grant.	XXXIX of 1925.

[1] See Central Acts.

Number.	—	Proper fee.
12. Certificate under Part X of the [1] Indian Succession Act, 1925. (XXXIX of 1925.)	....	The fee leviable in the case of a probate (article 11) on the amount or value of any debt or security specified in the certificate under section 374 of the Act, and one and a half times this fee on the amount or value of any debt or security to which the certificate is extended under section 376 of the Act. *Note.*—(1) The amount of a debt is its amount, including interest on the day on which the inclusion of the debt in the certificate is applied for, so far as such amount can be ascertained. (2) Whether or not any power with respect to a security specified in a certificate has been conferred under the Act; and where such a power has been so conferred, whether the power is for the receiving of interest or dividends on, or for the negotiation or transfer of the security, or for both purposes, the value of the security is its market-value on the day on which the inclusion of the security in the certificate is applied for, so far as such value can be ascertained.
12-A. Certificate under Bombay Regulation VIII of 1827.		The fee leviable in the case of a probate (article 11) on the amount or value of the property in respect of which the certificate is granted.

[1] See Central Acts.

Table of rates of ad valorem *fees leviable on the institution of suits.*

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.		When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	a.	Rs.	Rs.	Rs.	a.
....	5	0	6	420	430	32	4
5	10	0	12	430	440	33	0
10	15	1	2	440	450	33	12
15	20	1	8	450	460	34	8
20	25	1	14	460	470	35	4
25	30	2	4	470	480	36	0
30	35	2	10	480	490	36	12
35	40	3	0	490	500	37	8
40	45	3	6	500	510	38	4
45	50	3	12	510	520	39	0
50	55	4	2	520	530	39	12
55	60	4	8	530	540	40	8
60	65	4	14	540	550	41	4
65	70	5	4	550	560	42	0
70	75	5	10	560	570	42	12
75	80	6	0	570	580	43	8
80	85	6	6	580	590	44	4
85	90	6	12	590	600	45	0
90	95	7	2	600	610	45	12
95	100	7	8	610	620	46	8
100	110	8	4	620	630	47	4
110	120	9	0	630	640	48	0
120	130	9	12	640	650	48	12
130	140	10	8	650	660	49	8
140	150	11	4	660	670	50	4
150	160	12	0	670	680	51	0
160	170	12	12	680	690	51	12
170	180	13	8	690	700	52	8
180	190	14	4	700	710	53	4
190	200	15	0	710	720	54	0
200	210	15	12	720	730	54	12
210	220	16	8	730	740	55	8
220	230	17	4	740	750	56	4
230	240	18	0	750	760	57	0
240	250	18	12	760	770	57	12
250	260	19	8	770	780	58	8
260	270	20	4	780	790	59	4
270	280	21	0	790	800	60	0
280	290	21	12	800	810	60	12
290	300	22	8	810	820	61	8
300	310	23	4	820	830	62	4
310	320	24	0	830	840	63	0
320	330	24	12	840	850	63	12
330	340	25	8	850	860	64	8
340	350	26	4	860	870	65	4
350	360	27	0	870	880	66	0
360	370	27	12	880	890	66	12
370	380	28	8	890	900	67	8
380	390	29	4	900	910	68	4
390	400	30	0	910	920	69	0
400	410	30	12	920	930	69	12
410	420	31	8	930	940	70	8

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	a.
940	950	71	4
950	960	72	0
960	970	72	12
970	980	73	8
980	990	74	4
990	1,000	75	0
1,000	1,100	80	0
1,100	1,200	85	0
1,200	1,300	90	0
1,300	1,400	95	0
1,400	1,500	100	0
1,500	1,600	105	0
1,600	1,700	110	0
1,700	1,800	115	0
1,800	1,900	120	0
1,900	2,000	135	0
2,000	2,100	139	0
2,100	2,200	135	0
2,200	2,300	140	0
2,300	2,400	145	0
2,400	2,500	150	0
2,500	2,600	155	0
2,600	2,700	160	0
2,700	2,800	165	0
2,800	2,900	170	0
2,900	3,000	175	0
3,000	3,100	180	0
3,100	3,200	185	0
3,200	3,300	190	0
3,300	3,400	195	0
3,400	3,500	200	0
3,500	3,600	205	0
3,600	3,700	210	0
3,700	3,800	215	0
3,800	3,900	220	0
3,900	4,000	225	0
4,000	4,100	230	0
4,100	4,200	235	0
4,200	4,300	240	0
4,300	4,400	245	0
4,400	4,500	250	0
4,500	4,600	255	0
4,600	4,700	260	0
4,700	4,800	265	0
4,800	4,900	270	0
4,900	5,000	275	0
5,000	5,250	290	0
5,250	5,500	305	0
5,500	5,750	320	0
5,750	6,000	335	0
6,000	6,250	350	0
6,250	6,500	365	0

When the amount or value of the subject-matter exceeds—	But does not exceed—	Proper fee.	
Rs.	Rs.	Rs.	a.
6,500	6,750	380	0
6,750	7,000	395	0
7,000	7,250	410	0
7,250	7,500	425	0
7,500	7,750	440	0
7,750	8,000	455	0
8,000	8,250	470	0
8,250	8,500	485	0
8,500	8,750	500	0
8,750	9,000	515	0
9,000	9,250	530	0
9,250	9,500	545	0
9,500	9,750	560	0
9,750	10,000	575	0
10,000	10,500	597	8
10,500	11,000	620	0
11,000	11,500	642	8
11,500	12,000	665	0
12,000	12,500	687	8
12,500	13,000	710	0
13,000	13,500	732	8
13,500	14,000	755	0
14,000	14,500	777	8
14,500	15,000	800	0
15,000	15,500	822	8
15,500	16,000	845	0
16,000	16,500	867	8
16,500	17,000	890	0
17,000	17,500	912	8
17,500	18,000	935	0
18,000	18,500	957	8
18,500	19,000	980	0
19,000	19,500	1,002	8
19,500	20,000	1,025	0
20,000	21,000	1,055	0
21,000	22,000	1,085	0
22,000	23,000	1,115	0
23,000	24,000	1,145	0
24,000	25,000	1,175	0
25,000	26,000	1,205	0
26,000	27,000	1,235	0
27,000	28,000	1,265	0
28,000	29,000	1,295	0
29,000	30,000	1,325	0
30,000	32,000	1,355	0
32,000	34,000	1,385	0
34,000	36,000	1,415	0
36,000	38,000	1,445	0
38,000	40,000	1,475	0
40,000	42,000	1,505	0
42,000	44,000	1,535	0
44,000	46,000	1,565	0
46,000	48,000	1,595	
48,000	50,000	1,625	

and the fee increases at the rate of thirty rupees for every five thousand rupees, or part thereof, up to a maximum of ten thousand rupees, for example—

Rs.		Rs. a.		Rs.		Rs. a.
1,00,000	..	1,925 0	..	9,00,000	...	6,725 0
2,00,000	..	2,525 0	..	10,00,000	..	7,325 0
3,00,000	..	3,125 0	..	11,00,000	..	7,925 0
4,00,000	..	3,725 0	..	12,00,000	..	8,525 0
5,00,000	..	4,325 0	..	13,00,000	..	9,125 0
6,00,000	..	4,925 0	..	14,00,000	..	9,725 0
7,00,000	..	5,525 0	..	15,00,000	..	10,000 0
8,00,000	..	6,125 0				

Amendment of Schedule I to Act VII of 1870.

14. For Articles 1, 6, 7, 12, 14, 17, 18, 9, 20 and 21 of Schedule II to the said Act the following shall be substituted, namely :—

" SCHEDULE II.

Fixed fees.

Number.		—	Proper fee.
1.	Application or petition ..	(*a*) When presented to any officer of the Customs or Excise Department or to any Magistrate by any person having dealings with the Government, and when the subject-matter of such application relates exclusively to those dealings :	Two annas.
		or when presented to any officer of land-revenue by any person holding temporarily settled land under direct engagement with Government, and when the subject-matter of the application or petition relates exclusively to such engagement :	
		or when presented to any Municipal Commissioner under any Act for the time being in force for the conservancy or improvement of any place, if the application or petition relates solely to such conservancy or improvement :	
		or when presented to any Civil Court other than a principal Civil Court of original jurisdiction, or to any Court of Small Causes constituted under the [1]Provincial Small Causes Courts Act, 1887, or to a Collector or other officer of revenue in relation to any suit or case in which the amount or value of the subject-matter is less than fifty rupees, not being an application for assistance under section 86 of the Bombay Land Revenue Code, 1879.	IX of 1887. Bom. V of 1879.
		or when presented to any Civil, Criminal or Revenue Court or to any Board or executive officer for the purpose of obtaining a copy or translation of any judgment, decree or order passed by such Court, Board or officer, or of any other document on record in such Court or office.	

[1] See Central Act.

	Number.	—	Proper fee.
Bom. V of 1879.		(*aa*) When presented to a Collector or other officer of revenue for assistance under section 86 of the Bombay Land Revenue Code, 1879.	Four annas.
V of 1898.		(*b*) When containing a complaint or charge of any offence other than an offence for which police officers may, under the Criminal Procedure Code, 1898, arrest without warrant, and presented to any Criminal Court :	Eight annas.
		or when presented to a Civil, Criminal or Revenue Court, or to a Collector, or any Revenue-officer having jurisdiction equal or subordinate to a Collector, or to any Magistrate in his executive capacity and not otherwise provided for by this Act :	
		or to deposit in Court revenue or rent :	
		or for determination by a Court of the amount of compensation to be paid by a landlord to his tenant.	
		(*c*) When presented to a Chief Commissioner and other Chief Controlling Revenue or Executive Authority, or to a Commissioner of Revenue or Circuit, or to any chief officer charged with the executive administration of a division and not otherwise provided for by this Act.	Two rupees.
		(*d*) When presented to a High Court ..	Four rupees.
V of 1898. V of 1908.	6. Bail-bond or other instrument of obligation given in pursuance of an order made by a Court or Magistrate under any section of the Code of Criminal Procedure, 1898, or the Code of Civil Procedure, 1908, and not otherwise provided for by this Act.		One rupee.
V of 1869.	7. Undertaking under section 49 of the [1]Indian Divorce Act, 1869.	....	One rupee.
	12. Caveat	When the amount or value of the property involved does not exceed two thousand rupees.	Five rupees.
		When the amount or value of the property involved exceeds two thousand rupees.	Ten rupees.
XXI of 1866.	14. Petition in a suit under the [1]Native Converts' Marriage Dissolution Act, 1866.	....	Ten rupees.

See Central Acts.

Number.	—	Proper fee.	
17. Plaint or memorandum of appeal in each of the following suits :—			
(*i*) to alter or set aside a summary decision or order of any of the Civil Courts not established by Letters Patent or of any Revenue Court ;	When the amount or value of the property involved does not exceed five hundred rupees.	Ten rupees.	
(*ii*) to alter or cancel any entry in a register of the names of proprietors of revenue paying estates ; and	When the amount or value of the property involved exceeds five hundred rupees.	Fifteen rupees.	
(*iii*) to obtain a declaratory decree or order, where no consequential relief is prayed ;	....	Fifteen rupees.	
(*iv*) to set aside alienation ;	....	Fifteen rupees.	
(*v*) to set aside a decree or award ;	When the amount or value of the property involved does not exceed five hundred rupees.	Ten rupees.	
	When the amount or value of the property involved exceeds five hundred rupees.	Fifteen rupees.	
(*vi*) to set aside an adoption ; and	....	Fifteen rupees.	
(*vii*) any other suit where it is not possible to estimate at a money value the subject-matter in dispute, and which is not otherwise provided for by this Act.	....	Fifteen rupees.	
18. Application—			
(*a*) under paragraph 17 of the Second Schedule to the Code of Civil Procedure, 1908 ;	....	Ten rupees.	V of 1908.
(*b*) for probate or letters of administration or for revocation thereof under the [1]Indian Succession Act, 1925 :	When the amount or value of the Estate does not exceed two thousand rupees.	Two rupees.	XXXIX of 1925.
	When it exceeds two thousand rupees, but does not exceed five thousand rupees.	Five rupees.	
(*c*) for a certificate under Part X of the [1]Indian Succession Act, 1925, or Bombay Regulation, VIII of 1827 ;	When it exceeds five thousand rupees	.. Ten rupees.	XXXIX of 1925.

[1] See Central Acts.

	Number.	—	Proper fee.
	(*d*) for opinion or advice or for discharge from a Trust, or for appointment of new Trustees, under section 34, 72, 73 or 74 of the [1]Indian Trusts Act, 1882;	....	Ten rupees.
II of 1882.			
	(*e*) for the winding up of a Company, under section 166 of the [1]Indian Companies Act, 1913;	....	Ten rupees.
VII of 1913.			
	(*f*) under rule 58 of Order XXI of the [1]Code of Civil Procedure, 1908, regarding a claim to attached property.	When the amount or value of the property exceeds five hundred rupees.	Ten rupees.
V of 1908.			
	19. Agreement in writing stating a question for the opinion of the Court under the [1]Code of Civil Procedure, 1908.	....	Twenty rupees.
V of 1908.			
IV of 1869.	20. Every petition under the [1]Indian Divorce Act, 1869, except petitions under section 44 of that Act and every memorandum of appeal under section 55 of that Act.	....	Thirty rupees.
III of 1936. Bom. XXII of 1947.	21. Plaint or memorandum of appeal under [2][the Parsi Marriage and Divorce Act, 1936, or the Bombay Hindu Divorce Act, 1947].	....	Thirty rupees.

PART IV.

Stamp Duties.

II of 1899. **15.** In the Indian Stamp Act, 1899, in its application to the Presidency of Bombay, the following amendments shall be made, namely :— Amendment of Act II of 1899.

[3][(AI) In section 2,— Amendment of section 2 of Act II of 1899.

(*a*) after the words "in the subject or context—" the following clause shall be inserted, namely :—

"(AI) 'association' means any association, exchange, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to, any goods or marketable securities";

[1] *See* Central Acts.

[2] These words and figures were substituted for the words and figures "Parsi Marriage and Divorce Act, 1865" by Bom. 2 of 1949, s. 6.

[3] Sub-section (*AI*) was inserted by Bom. 2 of 1949, s. 7.

(*b*) after clause (7), the following clause shall be inserted, namely :—

"(8) 'clearance list' means a list of transactions relating to contracts required to be submitted to the clearing house of an association in accordance with the rules or by-laws of the association :

Provided that no instrument shall for the purposes of this Act, be deemed to be a clearance list, unless it contains the following declaration signed by the person dealing in such transactions or on his behalf by a properly constituted attorney, namely :—

"I/We hereby solemnly declare that the above list contains a complete and true statement of my/our transactions, and that it includes all the transactions required to be submitted to the clearing house in accordance with the rules/by-laws of the association. I/We further declare that no transaction relating to the purchase or sale on my/our own behalf or on behalf of a principal for which an exemption is claimed under Article 5 or Article 43 in Schedule I to the Indian Stamp Act, 1899, in its application to the Province of Bombay, as the case may be, is omitted" ; II of 1899.

(*c*) after clause (12A), the following clause shall be inserted, namely :—

"(12B) 'Government securities' means a Government security as defined in the Indian Securities Act, 1920 ;] X of 1920

Amendment of sections 4 and 6 of Act II of 1899.

(*1*) In sub-section (*1*) of section 4, and in the proviso to section 6, for the words "one rupee" the words "two rupees" shall be substituted.

Amendment of sections 11, 32, 35, 40, 41, 69 and 74 of Act II of 1899.

(*2*) In clause (*a*) of section 11, proviso (*c*) to section 32, proviso (*a*) to section 35, sub-section (*1*) of section 40, section 41, clause (*b*) of section 69 and the proviso to section 74 before the words "one anna" the words "two annas" shall be inserted.

Amendment of section 17 of Act II of 1899.

[1][(*2A*) To section 17, the following proviso, shall be added, namely :—

"Provided that a clearance list described in Article 20A of Schedule I may be stamped at any time but not later than two months after it is submitted [2][to the clearing house of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925.] Bom VIII of 1925.

New section 19A of Act II of 1899.

(*3*) After section 19, the following section shall be inserted, namely :—

Payment of duty on certain instruments liable to increased duty in Bombay Presidency.

"19A. Where any instrument of the nature described in any article in Schedule I and relating to any property situate or to any matter or thing done or to be done in the Presidency of Bombay is executed out of the said Presidency and subsequently received in the said Presidency—

(*a*) the amount of duty chargeable on such instrument shall be the amount of duty chargeable under Schedule I on a document of the like description executed in the Presidency of Bombay less the amount of duty, if any, already paid on such instrument in British India,

(*b*) and in addition to the stamps, if any, already affixed thereto, such instrument shall be stamped with the stamps necessary for the payment of the duty chargeable on it under clause (*a*) of this section in the same manner and

[1] This sub-section was inserted by Bom. 4 of 1939, s. 4 (*1*). This amendment shall be deemed to to have been made on and to have had effect from the 31st March 1938, *ibid*, s. 4 (*2*).

[2] These words and figures were substituted for the words and figures "by a member of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925, to the clearing housefsco u exch stockhange" by Bom. 6 of 1942, s. 3 (*1*), read with Bom. 23 of 1948, s. 4.

at the same time and by the same persons as though such instrument were an instrument received in British India for the first time at the time when it became chargeable with the higher duty, and

(*c*) the provisions contained in clause (*b*) of the proviso to sub-section (*3*) of section 32 shall apply to such instrument as if such were an instrument executed or first executed out of British India and first received in British India when it became chargeable to the higher duty aforesaid, but the provisions contained in clause (*a*) of the said proviso shall not apply thereto ".

(*4*) For the proviso to sub-section (*4*) of section 28 the following shall be substituted, namely :— Amendment of section 28 of Act II of 1899.

"Provided that notwithstanding anything contained in article 23 of Schedule I the duty on such last mentioned conveyance shall in no case be less than two rupees."

[1][(*4A*) After section 62, the following section shall be inserted, namely :— Insertion of new section 62A in Act II of 1899.

"62A. Any person who in a clearance list makes a declaration which is false or which he either knows or believes to be false, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.] Penalty for making false declaration on clearance list.

(*5*) In Schedule I— Amendments of Schedule 1 of Act II of 1899.

(*a*) in column 1 of article 12, clauses (*a*) and (*b*) shall be repealed ;

(*b*) for the entries in column 2 of the said Schedule relating to Articles 2 (*b*), 3, 4, 8 (*b*), 9, 12, [2]*, 15, 18, 20, 22, 23, 24, 25 (*b*), 26 (*b*), 29, 30 (*b*), 39, 40 (*c*), 41, 42, 44, 46, 48, 50, 51, 54 (*a*), 55 (*b*), 57 (*b*), [3][62 (*a*), (*b*) and (*c*)] and 65 and shown in column 2 of the Schedule to this Part the entries shown in column 3 of the latter Schedule shall be substituted ;

(*c*) for articles 5 and 43, the following shall, respectively, be substituted, namely :—

"5. Agreement or Memorandum of an Agreement—

(*a*) if relating to the sale of a bill of exchange ; ..	Four annas.
(*aa*) [4][if relating to the purchase or sale] of a Government security ;	Subject to a maximum of twenty rupees, two annas for every Rs. 10,000 or part thereof of the value of the security [5][at the time of its purchase or sale, as the case may be].
(*b*) if relating to the purchase or sale of shares, scrips, stocks, bonds, debentures, debture stocks or any other marketable security of a like nature in or of any incorporate company or other body corporate ;	Two annas for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be].
(*bb*) if relating to the purchase or sale of cotton ; ..	Four annas for every unit of transaction or part thereof.]
(*bc*) if relating to the purchase or sale of bullion or specie ;	(*a*) Two annas for every unit of 2,800 tolas of silver or part thereof ; (*b*) Eight annas for every unit of 250 tolas of gold or part thereof ; (*c*) Five annas for every unit of 250 sovereigns or part thereof.]
(*c*) if not otherwise provided for ..	One rupee.

[1] This sub-section was inserted by Bom. 2 of 1949, s. 7 (*2*).
[2] The figures "14" were deleted by Bom. 7 of 1938, s. 4(*1*).
[3] The word, figures, letters and brackets "62 (*a*), (*b*) and (*c*)" were substituted for the figures, letter and brackets "62(*c*) (*ii*)" by Bom. 1 of 1935.
[4] These words were substituted for the words "if relating to the sale" by Bom. 7 of 1938, s. 4 (*2*) (*a*).
[5] These words were added, *ibid*.
[6] This entry was substituted, *ibid* s. 4(*2*) (*b*).
[7] This entry was inserted by Bom. 23 of 1948, s. 12.
[8] This entry was inserted by Bom. 2 of 1949, s. 7.

Exemptions.

Agreement or Memorandum of an Agreement,—

(*a*) for or [1][relating to the purchase or sale] of goods or merchandise exclusively, not being [2][an Agreement or Memorandum of Agreement chargeable under entry (*bb*) [3][or entry (*bc*)] of this Article or] a Note or Memorandum chargeable under No. 43;

(*b*) made in the form of tenders to the [4][Central Government] for or relating to any loans;

(*c*) made under the [5]European Vagrancy Act, 1874, section 17;

[6][(*d*) made in respect of the purchase or sale of a Government security or of a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of any incorporate company or other body corporate, [7][or of cotton, or of bullion or specie, an entry relating to which is required to be made in a clearance list described in Article 20A, 20B or 20C, as the case may be.]

[8]*Explanation.*—For the purposes of this Article, unit of transaction means 50 bales of cotton, a bale of cotton being equal to the quantity of cotton weighing approximately 392 lbs.]

"43. Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal,—

[9][(*aa*) of cotton ..	Four annas for every transaction or part thereof.
[10][(*ab*) of bullion or specie; ..	(*a*) Two annas for every unit of 2,800 tolas of silver or part thereof; (*b*) Eight annas for every unit of 250 tolas of gold or part thereof; (*c*) Five annas for every unit of 250 sovereigns or part thereof.]
(*a*) of [11][any other goods] exceeding in value twenty rupees;	Four annas.
[12][(*b*) of any share, scrip, stock bond, debenture, debenture stock or other marketable security of a like nature exceeding in value twenty rupees, not being a Government security.	Two annas for every Rs. 2,500 or part thereof of the value of the security at the time of its purchase or sale, as the case may be.]
(*bb*) of a Government security ..	Subject to a maximum of twenty rupees two annas for every 10,000 rupees or part thereof of the value of the security [13][at the time of its purchase or sale, as the case may be.]

[1] These words were substituted for the words "relating to the sale" by Bom. 7 of 1938, s. 4(*2*) (*c*).

[2] These words, brackets and letters were inserted by Bom. 23 of 1948, s. 12.

[3] These words, brackets and letters were inserted by Bom. 2 of 1949, s. 7.

[4] The words "Central Government" were substituted for the words "Government of India" by the Adaptation of Indian Laws Order in Council.

[5] Central Act.

[6] This entry was added by Bom. 7 of 1938, s. 4 (*2*) (*d*).

[7] These words were substituted for the original by Bom. 2 of 1949, s. 7.

[8] This Explanation was added by Bom. 23 of 1948, s. 12.

[9] This entry was inserted, *ibid.*

[10] This clause was inserted by Bom. 2 of 1939, s. 7.

[11] These words were substituted for "any goods" by Bom. 23 of 1948.

[12] This entry was substituted by Bom. 7 of 1938, s. 4(*3*)(*i*).

[13] These words were added, *ibid*, s. 4 (*3*) (*ii*).

[1][*Exemptions.*[2]

[2][(*1*) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of cotton on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20B].

[3][(*1A*) Note or Memorandum sent by a Broker or Agent to his principal intimating the purchase or sale of bullion or specie on account of such principal, an entry relating to which is required to be made in a clearance list described in Article 20C] ;

[1][(*2*) Note or memorandum sent by a Broker or Agent to his principal intimating the purchase or sale on account of such principal of a Government security or a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of an incorporate company or other body corporate, [4][an entry relating to which is required to be made in a clearance list [5][described in Article 20A].

[6][*Explanation.*—For the purposes of this Article, unit of transaction means 50 bales of cotton, a bale of cotton being equal to the quantity of cotton weighing approximately 392 lbs. ;]

and

(*d*) for Articles 7 and 10 the following shall, respectively, be substituted namely :—

"7. Appointment in execution of a power, where made by any writing not being a will—

(*a*) of trustees	.. Fifteen rupees.
(*b*) of property, moveable or immovable	.. Thirty rupees.

"10. Articles of Association of a Company—

(*a*) where the company has no share capital or the nominal share capital does not exceed Rs. 2,500.	Twenty-five rupees.
(*b*) where the nominal share capital exceeds Rs. 2,500 but does not exceeds Rs. 1,00,000.	Fifty rupees.
(*c*) where the nominal share capital exceeds Rs. 1,00,000.	One-hundred rupees

Exemption.

Articles of any Association not formed for profit and registered under section 26 of the [7][Indian Companies, Act, 1913.]

VII of 1913.

See also Memorandum of Association of a Company (No. 39).

[8][(*dd*) after Article 20, [9][the following Articles] shall be inserted, namely :—

[5]20A. Clearance list relating to the transactions for the purchase or sale of a Government security or a share, scrip, stock, bond, debenture, debenture stock or other marketable security of a like nature in or of an incorporate company or other body corporate submitted to the clearing house of a stock exchange.	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the value of the securities calculated at the making up price or the contract price, as the case may be.

[10][* * * * *]

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[1] The word Exemption and clause (2) thereof were, added by Bom. 7 of 1938, *ibid*, s. 4 (*3*) (*iii*).

[2] The word Exemption and clause (1) thereof were substituted for "Exemption" by Bom. 23 of 1948.

[3] This entry was inserted by Bom. 2 of 1949, s. 7.

[4] These words and figures were substituted for the words and figures "an entry relating to which is made in a clearance list which is duly stamped under Article 20A," by Bom. 4 of 1939, s. 5(2).

[5] These words were substituted for "in accordance with the rules of a stock exchange recognised under the Bombay Securities Contracts Control Act, 1925" by Bom. 8 of 1947, s.

[6] This Explanation was added by Bom. 23 of 1948, s. 12.

[7] *See* Central Acts.

[8] This Article was substituted for the original by Bom. 8 of 1947, s. 3 (*2*).

[9] These words were substituted by Bom. 2 of 1949, s. 7.

[10] The Explanation below Article 20A was deleted, *ibid*.

[1]20B. Clearance list relating to the transaction for the purchase or sale of cotton submitted to the clearing house of a Cotton Association.	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof.
[2]* *	* *
[3]20C. Clearance list relating to the transaction for the purchase or sale of bullion or specie submitted to the clearing house of a Bullion Association;	The sum of duties payable under Article 5 or 43, as the case may be, in respect of each of the entries in such list on the units of transactions or parts thereof.]

(*e*) in clause (*a*) in column (1) of Article 25 for the words "one rupee" the words "two rupees" shall be substituted, and;

[4][(*ee*) in the entry in column 2 of Article 33 for the words "as set forth in such instrument" the following shall be substituted, namely:—

"which is the subject-matter of the gift:

Provided that where an instrument of gift contains any provision for the revocation of the gift, the value of the property which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument.";]

(*f*) in provisoes (*a*) and (*c*) in column 2 of Article 45, for the words "eight annas" the words "one rupee" shall be substituted.

[5][(*g*) in the entry in column 2 of Article 58,—

(*i*) the words "as set forth in such settlement" shall be deleted; and

(*ii*) after the words "eight-annas" the following shall be inserted, namely:—

"Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument."]

SCHEDULE.

[*See* section 15 (*5*)].

1	2	3
2. Administration Bond—		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
3. Adoption Deed ..	Ten rupees ..	Twenty rupees.
4. Affidavit ..	One rupee ..	Two rupees.
8. Appraisement etc.—		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
9. Apprenticeship Deed ..	Five rupees ..	Ten rupees.
12. Award . ..	The same duty as a Bond (No. 15) for such amount. Five rupees.	The same duty as a (Bond No. 15) for the amount or value of the property to which the award relates as set forth in such award subject to a maximum of twenty rupees.
[6]* * *	* *	* * * *
15. Bond—		
where it exceeds Rs. 200 and does not exceed Rs. 300.	One rupee eight annas ..	Two rupees four annas.
where it exceeds Rs. 300 and does not exceed Rs. 400.	Two rupees ..	Three rupees.
where it exceeds Rs. 400 and does not exceed Rs. 500.	Two rupees eight annas ..	Three rupees twelve annas.

[1] This Article was inserted by Bom. 23 of 1948, s. 12.
[2] The Explanation below article 20B was deleted, by Bom. 2 of 1949, s. 7.
[3] This article was inserted, *ibid.*
[4] This clause was inserted by Bom. 4 of 1941, s. 3 (*1*), read with Bom. 23 of 1948, s. 3.
[5] This clause was inserted, *ibid.* s. 3 (*2*).
[6] Entries relating to Article 14 were deleted by Bom. 7 of 1938, s. 5(*i*).

where it exceeds Rs. 500 and does not exceed Rs. 600.	Three rupees ..	Four rupees eight annas.
where it exceeds Rs. 600 and does not exceed Rs. 700.	Three rupees eight annas ..	Five rupees four annas.
where it exceeds Rs. 700 and does not exceed Rs. 800.	Four rupees ..	Six rupees.
where it exceeds Rs. 800 and does not exceed Rs. 900.	Four rupees eight annas ..	Six rupees twelve annas.
where it exceeds Rs. 900 and does not exceed Rs. 1,000.	Five rupees ..	Seven rupees eight annas.
and for every Rs. 500 or part thereof in excess of Rs. 1,000.	Two rupees eight annas ..	Three rupees twelve annas.
18. Certificate of Sale—		
(*a*) where the purchase-money does not exceed Rs. 10.	Two annas ..	Four annas.
(*b*) where the purchase-money exceeds Rs. 10 but does not exceed Rs. 25.	Four annas ..	Eight annas.
(*c*) in any other case ..	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.	The same duty as a conveyance (No. 23) for a consideration equal to the amount of the purchase-money only.
20. Charter-Party ..	One rupee ..	Two rupees.
22. Composition-Deed ..	Ten rupees ..	Twenty rupees.
23. Conveyance—		
where the amount or value of the consideration for such conveyance as set forth therein.		
exceeds Rs. 200 but does not exceed Rs. 300.	Three rupees. ..	Four rupees eight annas.
where it exceeds Rs. 300 but does not exceed Rs. 400.	Four rupees ..	Six rupees.
where it exceeds Rs. 400 but does not exceed Rs. 500.	Five rupees ..	Seven rupees eight annas.
where it exceeds Rs. 500 but does not exceed Rs. 600.	Six rupees. ..	Nine rupees.
where it exceeds Rs. 600 but does not exceed Rs. 700.	Seven rupees ..	Ten rupees eight annas.
where it exceeds Rs. 700 but does not exceed Rs. 800.	Eight rupees ..	Twelve rupees.
where it exceeds Rs. 800 but does not exceed Rs. 900.	Nine rupees ..	Thirteen rupees eight annas.
where it exceeds Rs. 900 but does not exceed Rs. 1,000.	Ten rupees. ..	Fifteen rupees.
and for every Rs. 500 or part thereof in excess Rs. 1,000.	Five rupees ..	Seven rupees eight annas.
24. Copy or Extract—		
(*i*) if the original was not chargeable with duty or if the duty with which it was chargeable does not exceed one rupee.	Eight annas ..	One rupee.
(*ii*) in any other case ..	One rupee ..	Two rupees.
25. Counterpart or Duplicate—		
(*b*) in any other case ..	One rupee ..	Two rupees.
26. Customs Bond—		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
29. Divorce ..	One rupee ..	Five rupees.
30. Entry as an Advocate, Vakil or Attorney on the roll of any High Court—		
(*b*) in the case of an Attorney ..	Two hundred and fifty rupees.	Five hundred rupees.

39. Memorandum of Association of a Company—			
(a) if accompanied by articles of association under section 17 of the [1]Indian Companies Act, 1913.	Fifteen rupees	..	Thirty rupees. VII of 1913.
(b) if not so accompanied ..	Forty rupees	..	Eighty rupees.
40. Mortgage-Deed—			
(c) when a collateral or auxiliary or additional or substituted security or by way of further assurance for the abovementioned purpose where the principal or primary security is duly stamped—			
for every sum secured not exceeding Rs. 1,000;	Eight annas	..	One rupee.
and for every Rs. 1,000 or part thereof secured in excess of Rs. 1,000.	Eight annas	..	One rupee.
41. Mortgage of a crop—			
(a) when the loan is repayable not more than three months from the date of the instrument for every sum secured not exceeding Rs. 200.	One anna	..	Two annas.
and for every Rs. 200 or part thereof secured in excess of Rs. 200;	One anna	..	Two annas.
(b) when the loan is repayable more than three months, but not more than eighteen months, from the date of the instrument—			
for every sum secured not exceeding Rs. 100.	Two annas	..	Four annas.
and for every Rs. 100 or part thereof secured in excess of Rs. 100;	Two annas	..	Four annas.
42. Notarial Act ..	One rupee	..	Two rupees.
44. Note of protest by the Master of a Ship.	Eight annas	..	One rupee.
60. Partnership—			
(A) Instrument of—			
(a) where the capital of the partnership does not exceed Rs. 500.	Two rupees eight annas	..	Five rupees.
(b) in other cases ..	Ten rupees	..	Twenty rupees.
(B) Dissolution of ..	Five rupees	..	Ten rupees.
48. Power of Attorney—			
(a) when executed for the sole purpose of procuring the registration of one or more documents in relation to a single transaction or for admitting execution of one or more such documents.	Eight annas	..	One rupee.
(b) when required in suits or proceedings under the [1]Presidency Small Cause Courts Act, 1882.	Eight annas	..	One rupee. XV of 1882.
(c) when authorising one person or more to act in a single transaction other than the case mentioned in clause (a).	One rupee	..	Two rupees.
(d) when authorising not more than five persons to act jointly and severally in more than one transaction or generally.	Five rupees	..	Ten rupees.
(e) when authorising more than five but not more than ten persons to act jointly and severally in more than one transaction or generally.	Ten rupees	..	Twenty rupees.
(f) when given for consideration and authorising the attorney to sell any immovable property.	The same duty as a Conveyance (No. 23) for the amount of the consideration.		The same duty as a Conveyance (No. 23) for the amount of the consideration.

[1] *See* Central Acts.

(*g*) in any other case ..	One rupee for each person authorised.	Two rupees for each person authorised. *N.B.*—The term "registration" includes every operation incidental to registration under the [1]Indian Registration Act, 1908.
XVI of 1908.		
50. Protest of Bill or note ..	One rupee ..	Two rupees.
51. Protest by the Master of a Ship ..	One rupee ..	Two rupees.
54. Reconveyance of Mortgaged Property—		
(*a*) if the consideration for which the property was mortgaged does not exceed Rs. 1,000.	The same duty as a Conveyance (No. 23) for the amount of such consideration as set forth in the Reconveyance.	The same duty as a Bond (No. 15) for the amount of such consideration as set forth in the Reconveyance.
55. Release		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
57. Security Bond or Mortgage-Deed—		
(*b*) in any other case ..	Five rupees ..	Ten rupees.
[2]62. Transfer (whether with or without consideration)—		
(*a*) of shares in an incorporated company or other body corporate ?	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the value of the share.	12 annas for every Rs. 100 or part thereof of the value of the share.
(*b*) of debentures, being marketable securities, whether the debenture is liable to duty or not, except debentures provided for by section 8.	One-half of the duty payable on a Conveyance (No. 23) for a consideration equal to the face amount of the debenture.	12 annas for every Rs. 100 or part thereof of the face amount of the debenture.
(*c*) of any interest secured by a bond, mortgage-deed or policy of insurance—		
(*i*) if the duty on such bond, mortgage-deed or policy does not exceed [3][ten] rupees.	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.	The duty with which such bond, mortgage-deed or policy of insurance is chargeable.
(*ii*) in any other case ..	Five rupees ..	Ten rupees.
65. Warrant for Goods ..	Four annas ..	Eight annas.

PART V.

Stamp duties on certain instruments in certain [4]*(cities and urban areas).*

Extent of Part V.

16. This Part extends to the cities of Bombay, Ahmedabad, Poona and [5][such other cities and urban areas, as the Provincial Government may, by notification in the Official Gazette, specify in this behalf.]

Definitions.

17. In this Part, unless there is anything repugnant in the subject or context,

(*a*) "City of Ahmedabad" means [6][the limits of the municipal borough of Ahmedabad, the Cantonment of Ahmedabad and the [7][village] of Sabarmati.]

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[1] See Central Acts.
[2] The entries relating to Article 62 were substituted for the original by Bom. 1 of 1935, s. 3 (*2*).
[3] The word "ten" was substituted for the word "five" by Bom. 7 of 1938, s. 5 (*ii*).
[4] These words were substituted for the word "cities" by Bom. 4 of 1939, s. 6 (*1*).
[5] These words were substituted for the words "Karachi only", *ibid*, s. 6 (*2*).
[6] These words were substituted for the original, *ibid*, s. 6 (*3*) (*i*).
[7] This word was substituted and shall be deemed always to have been substituted with effect from the 1st day of April 1941 for the words "notified area" by Bom. 3 of 1943, s. 3, read with Bom. 23 of 1948, s. 5.

(*b*) "City of Poona" means the municipal district of Poona, the suburban municipal district of Poona, and the cantonment of Poona, and

[1][(*c*) "City" (when used in connection with any city other than those mentioned in clauses (*a*) and (*b*) above) means any urban area which the Provincial Government may, by notification in the Official Gazette, declare as being included in the said city; and

(*d*) "Urban area" means any area within the limits of a municipality, cantonment or notified area committee.]

Amendments of Schedule I to Act II of 1899.

[2]**18.** Notwithstanding anything contained in Part IV, in Schedule I to the [3]Indian Stamp Act, 1899, in its application— II of 1899.

[4][(*a*) to the City of Bombay,

(*b*) to the Cities of Ahmedabad, Poona and any other city to which this Part has been extended under section 16, and

(*c*) to any urban area (other than those to which clause (*a*) or (*b*) applies) to which this part has been extended under section 16],

in respect of any instrument relating to immovable property situate within the said cities [5][and urban areas] and of the nature described in the articles hereinafter specified; for the entries against the said articles in columns 1 and 2 the following entries shall respectively be substituted, namely:—

18. CERTIFICATE OF SALE (in respect of each property put up as a separate lot and sold) granted to the purchaser of any property sold by public auction by a Civil or Revenue Court, or Collector or other Revenue Officer—	
(*c*) in any other case	The same duty as is leviable on a Conveyance (No. 23) [6][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of the purchase-money only.

[1] Clauses (*c*) and (*d*) were substituted for clause (*c*) by Bom. 4 of 1939, s. 6 (*3*) (*ii*).

[2] This section was substituted by Bom. 6 of 1932, s. 2.

[3] See Central Acts.

[4] These words, brackets, letters and figures were substituted for the words "to the Cities of Bombay, Ahmedabad, Poona and Karachi" by Bom. 4 of 1939, s. 6 (*4*) (*i*).

[5] These words were inserted, *ibid*, s. (*4*) (*ii*).

[6] These words and figures were substituted for the words, brackets and figures "under the Bombay Finance (Amendment) Act, 1932" by Bom. 1 of 1940, s. 3 (*i*), read with Bom. 23 of 1948, s. 2.

	The City of Bombay.		The Cities of Ahmedabad and Poona and any other city.		Urban areas other than those mentioned in columns 1 and 2.	
	1	Rs. a. p.	2	Rs. a. p.	3	Rs. a. p.
[1][23. Conveyance [as defined by section 2 (*10*)] so far as it relates to immovable property.	Where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300.	10 0 0	Where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300 ..	7 8 0	Where the amount or value of the consideration for such conveyance as set forth therein exceeds Rs. 200 but does not exceed Rs. 300 ..	4 8 0
	Where it exceed Rs. 300 but does not exceeds Rs. 400.	14 0 0	exceeds Rs. 300 but does not exceed Rs. 400 ..	10 8 0	exceeds Rs. 300 but does not exceed Rs. 400 ..	6 0 0
	Where it exceeds Rs. 400 but does not exceed Rs. 500.	18 0 0	exceeds Rs. 400 but does not exceed Rs. 500 ..	13 8 0	exceeds Rs. 400 but does not exceed Rs. 500 ..	7 8 0
	Where it exceeds Rs. 500 but does not exceed Rs. 600 ..	22 0 0	exceeds Rs. 500 but does not exceed Rs. 600 ..	16 8 0	exceeds Rs. 500 but does not exceed Rs. 600 ..	9 0 0
	Where it exceeds Rs. 600 but does not exceed Rs. 700.	26 0 0	exceeds Rs. 600 but does not exceed Rs. 700 ..	19 8 0	exceeds Rs. 600 but does not exceed Rs. 700 ..	10 8 0
	Where it exceeds Rs. 700 but does not exceed Rs. 800. ..	30 0 0	exceeds Rs. 700 but does not exceed Rs. 800 ..	22 8 0	exceeds Rs. 700 but does not exceed Rs.800 ..	12 0 0
	Where it exceeds Rs. 800 but does not exceed Rs. 900.	34 0 0	exceeds Rs. 800 but does not exceed Rs. 900 ..	25 8 0	exceeds Rs. 800but does not exceed Rs. 900 ..	13 8 0
	Where it exceeds Rs. 900 but does not exceed Rs. 1,000 ..	38 0 0	exceeds Rs. 900 but does not exceed Rs. 1,000 ..	28 8 0	exceeds Rs. 900 but does not exceed Rs. 1,000 ..	15 0. 0
	and for every Rs. 500 or part thereof in excess of Rs. 1,000	20 0 0	and for every Rs. 500 or part thereof in excess of Rs. 1,000 ..	15 0 0	and for every Rs. 500 or part thereof in excess of Rs. 1,000 ..	10 0 0

[1] These entries were substituted for the original by Bom. 4 of 1939, s. 6, (*4*) (*iii*).

[1][27. Debenture. (*b*) by delivery	The same duty, as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the face amount of the debenture.]
31. EXCHANGE OF PROPERTY—instrument of.	The same duty, as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the value of the property of greatest value as set forth in such instrument.
32. FURTHER CHARGE—Instrument of, that is to say, any instrument imposing a further charge on mortgaged property—	
(*a*) when the original mortgage is one of the description referred to in clause (*a*) of Article No. 40 (that is, with possession);	The same duty, as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of the further charge secured by such instrument.
(*b*) when such mortgage is one of the description referred to in clause (*b*) of Article No.40 (that is, without possession)—	The same duty, as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the total amount of the charge (including the original mortgage and any further charges already made) less the duty already paid on such original mortgage and further charge.
(*i*) if at the time of execution of the instrument of further charge possession of the property is given or agreed to be given under such instrument;	
33. GIFT—Instrument of, not being a Settlement (No. 58), or Will or Transfer (No. 62).	The same duty as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the value of the property [3][which is the subject-matter of the gift: Provided that where an instrument of gift contains any provision for the revocation of the gift, the value of the property which is the subject-matter of the gift shall, for the purposes of duty, be determined as if no such provision were contained in the instrument].
[4][35. Lease— [5][(*a*) (*iii*) where the lease purports to be for a term in excess of three years.	The same duty as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the amount or value of the average annual rent reserved.
(*a*) (*iv*) where the lease does not purport to be for any definite term.	The same duty as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the amount or value of the average annual rent which would be paid or delivered for the first ten years if the lease continued so long.
(*a*) (*v*) where the lease purports to be in perpetuity.	The same duty as was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to one-fifth of the whole amount of rents which would be paid or delivered in respect of the first fifty years of the lease.]

[1] This entry was inserted by Bom. 1 of 1940, s. 3 (*ii*), read with Bom. 23 of 1948, s. 2.

[2] These words and figures were substituted for the words, brackets and figures "under the Bombay Finance (Amendment) Act, 1932," *ibid* s. 3 (*i*).

[3] These words and proviso were inserted for the words "as set forth in such instrument" by Bom. 4 of 1941, s. 4 (*1*), read with Bom. 23 of 1948, s. 3.

[4] This entry was inserted by Bom. 4 of 1939, s. 6 (*4*) (*iv*).

[5] These clauses were inserted by Bom. 1 of 1940, s. 3 (*iii*) (*a*), read with Bom. 23 of 1948, s. 2.

*(b) (i) Where the lease is granted for money advanced and where no rent is reserved.	The same duty as is leviable on a conveyance [1][(No. 23) under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of such advance as set forth in the lease.
*(b) (ii) Where the lease is granted for a fine or premium and where no rent is reserved.	The same duty as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of such fine or premium as set forth in the lease.
*(c) (i) Where the lease is granted for money advanced in addition to rent reserved.	Same duty as is leviable on a conveyance [1][(No. 23) under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of advance as set forth in the lease, in addition to the duty which would have been payable on such lease if no advance had been paid or delivered : Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.
*(c) (ii) Where the lease is granted for a fine or premium in addition to rent reserved.	The same duty as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of such fine or premium as set forth in the lease, in addition to the duty which would have been payable on such lease if no fine or premium had been paid or delivered : Provided that, in any case when an agreement to lease is stamped with the *ad valorem* stamp required for a lease, and a lease in pursuance of such agreement is subsequently executed, the duty on such lease shall not exceed eight annas.]
40. MORTGAGE-DEED, not being an agreement relating to Deposit of Title-Deeds, Pawn or Pledge (No. 6), Bottomry Bond (No. 16), Mortgage of a Crop (No. 41), Respondentia Bond (No. 56), or Security Bond (No. 57)—	
(a) when possession of the property or any part of the property comprised in such deed is given by the mortgagor or agreed to be given.	The same duty as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time time] for a consideration equal to the amount secured by such deed.
*[(48. Power of Attorney. (f) when given for consideration and authorising the attorney to sell any immovable property.	The same duty a was leviable on a conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for the amount of the consideration].

[1] These words and figures were substituted for the original by Bom 1 of 1940 s. 3 (*iii*) (*b*) read with Bom. 23 of 1948, s. 2.

[2] These words and figures were substituted for the original by Bom. 1 of 1940, s. 3 (*i*) read with Bom. 23 of 1948, s. 2.

[3] This entry was inserted, *ibid*, s. 3 (*v*).

* *Vide* footnote No. 4 on prepage.

58. SETTLEMENT—	
A.—Instrument of (including a deed of dower).	(*i*) where the settlement is made for a religious or charitable purpose—The same duty as a bond (No. 15) for a sum equal to the amount or value of the property settled [1]* * * * *
	(*ii*) in any other case—The same duty as is leviable on a conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount or value of the property settled [1]* * *
	Provided that, where an agreement to settle is stamped with the stamp required for an instrument of settlement, and an instrument of settlement in pursuance of such agreement is subsequently executed, the duty on such instrument shall not exceed one rupee:
	[3][Provided further that where an instrument of settlement contains any provision for the revocation of the settlement, the amount or value of the property settled shall, for the purposes of duty, be determined as if no such provision were contained in the instrument).
Exemptions.	
(*a*) Deed of dower executed on the occasion of a marriage between Muhammadans.	
(*b*) Hludassa, that is to say, any settlement of immovable property executed by a Buddhist in Burma for a religious purpose in which no value has been specified and on which a duty of Rs. 10 has been paid.	
B.—Revocation of—	The same duty as is leviable on a Conveyance (No. 23) [2][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount or value of the property concerned as set forth in the instrument of revocation but not exceeding ten rupees.
[4][59. Share warrants to bearer issued under the Indian Companies Act, 1882.	One and a half times the duty payable on a Conveyance (No. 23) before the passing of the Bombay Finance Act, 1932, for a consideration equal to the nominal amount of the shares specified in the warrant.]
63. TRANSFER OF LEASE by way of assignment and not by way of under-lease.	The same duty as is leviable on a Conveyance (No. 23) [1][under the Bombay Finance Act, 1932, as amended from time to time] for a consideration equal to the amount of the consideration for the transfer.
Exemption.	
Transfer of any lease exempt from duty.	

epeal of om. II of 926.

19. The Indian Stamp (Bombay Amendment) Act, 1926, is hereby repealed. Bom. II of 1926.

The words "as set forth in such settlement" were deleted by Bom. 4 of 1941, s. 4 (2) (*i*) read with Bom. 23 of 1948, s. 3.

[2] These words and figures were substituted for the words, brackets and figures "under the Bombay Finance (Amendment) Act, 1932," by Bom. 1 of 1940, s. 3 (*i*) read with Bom. 23 of 1948, s. 2.

[3] This proviso was inserted by Bom. 4 of 1941, s. 4 (2) (*ii*), read with Bom. 23 of 1948, s. 3.

[4] This entry was inserted, by Bom. 1 of 1940, s. 3 (*v*) read with Bom. 23 of 1948, s. 2.

[1][PART VI.

Urban Immovable Property Tax.

Extent of Part VI.

20. This Part extends to—

(*i*) the City of Bombay,

(*ii*) the limits of the municipal boroughs of Thana, Kurla, Bandra and Ahmedabad [2][and of the Poona City and Poona Suburban borough municipalities],

(*iii*) the limits of the municipal districts of Ville Parle, Ghatkopar-Kirol and Juhu in the Bombay Suburban District,

(*iv*) the notified areas of Malad, Kandivali, Borivali. Chembur and Mulund in the Bombay Suburban District, Bhayandar in the District of Thana and Sabarmati in the District of Ahmedabad, and

(*v*) the limits of the [3][Cantonments of Ahmedabad, Poona and Kirkee].

Definitions.

21. Unless there is anything repugnant in the subject or context.—

(*1*) "Annual letting value" means—

Bom. III of 1888.

(*a*) in the City of Bombay, the rateable value of buildings or lands as determined in accordance with the provisions of the City of Bombay Municipal Act, 1888;

Bom. XVIII of 1925. Bom. III of 1901.

(*b*) in the other Municipal areas, the annual letting value of buildings or lands as determined in accordance with the provisions of section 78 of the Bombay Municipal Boroughs Act, 1925, or section 63 of the Bombay District Municipal Act, 1901, as the case may be;

II of 1924.

(*c*) in the [4][areas of the Cantonments of Ahmedabad, Poona and Kirkee,] the annual value as defined by section 64 of the Cantonments Act, 1924:

Bom. III of 1888. Bom. XVIII of 1925. Bom. III of 1901. II of 1924.

Provided that if in any case the property tax is assessed on any building or land on its capital value, such percentage of the capital value as may be determined by the Provincial Government shall be deemed to be the annual letting value.

(*2*) "Buildings" and "lands" have the same meanings as they have in the City of Bombay Municipal Act, 1888, the Bombay Municipal Boroughs Act, 1925, the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, as the case may be;

(*3*) "Urban Immovable Property tax" means a tax leviable under the provisions of section 22;

(*4*) "Municipality" includes a Notified Area Committee;

(*5*) "Municipal area" means an area within the limits of a municipality;

(*6*) "Prescribed" means prescribed by rules;

Bom. III of 1888.

(*7*) "Property tax" means in the City of Bombay the general tax levied under section 143 of the City of Bombay Municipal Act, 1888, and in other Municipal areas and in the [4][areas of the Cantonments of Ahmedabad, Poona and Kirkee]

[1] This Part was added by Bom. 4 of 1939, s. 7.

[2] These words were added by Bom. 9 of 1946, s. 3(*i*), read with Bom. 23 of 1948, s. 8.

[3] These words were substituted for the words "Cantonment of Ahmedabad," *ibid.*, s. 3 (*ii*).

[4] These words were substituted for the words "area of the Cantonment of Ahmedabad" by Bom. 9 of 1946, s. 4, read with Bom. 23 of 1948, s. 8.

a tax or rate on buildings or lands or a tax or rate in the form of such tax or rate on buildings or lands levied under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, as the case may be ; and

Bom. XVIII of 1925. Bom. III of 1901. II of 1924.

(*8*) " Rules " means rules made under section 29.

Levy of Urban Immovable Property Tax.

22. There shall, subject to the provisions of section 23, be levied and paid to the Provincial Government a tax on buildings and lands, hereinafter called the " Urban Immovable Property tax " at [1][such rate not exceeding seven per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*] :

Provided that such tax shall be levied and paid to the Provincial Government [2][such rate not exceeding three and half per cent. of the annual letting value of the buildings or lands in such area or areas as may be notified by the Provincial Government in the *Official Gazette*].

(*a*) in the City of Bombay on the buildings and lands the annual letting value of which does not exceed Rs. 2,000, and

(*b*) in other areas on the buildings and lands the annual letting value of which does not exceed such amount as the Provincial Government may, by notification in the *Official Gazette*, declare :

Provided further that if any building consists of more than one tenement and such tenements are separately assessed to the property tax, the urban immovable property tax shall be assessed on the annual letting value of the building as a whole:

[3][Provided also that, where more than one building or land in the same locality is [4][owned by the same person], the urban immovable property tax shall be assessed on the annual letting value of all such buildings or lands.]

Exemption of certain buildings and lands from the levy of Urban Immovable Property tax.

23. The Urban Immovable Property tax shall not be leviable in respect of the following :—

(*a*) buildings and lands or portions thereof exclusively occupied for public worship or for charitable purposes ;

(*b*) buildings and lands vesting in His Majesty for purposes of the Central Government ;

(*c*) buildings and lands vesting in His Majesty for purposes of the Provincial Government or belonging to a Municipality or a local board or a Cantonment Board and used solely for public purposes and not used or intended to be used for purposes of profit ; [5]*

(*d*) (*i*) buildings and lands vesting in the trustees of the Port of Bombay and not used or intended to be used for purposes of profit ; and

(*ii*) wharves, docks, piers, Railways and lighthouses (as defined in the Bombay Port Trust Act, 1879) vesting in the Trustees of the Port of Bombay, and used as such and such other properties vesting in the said Trustees as the Provincial Government may notify in this behalf ; [6][and

Bom. VI of 1879

(*e*) open lands within the limits of the Bombay Suburban and Thana Districts.

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[1] These words were substituted for " 7 per cent. of the annual letting value of such buildings or lands " by Bom. 2 of 1949, s. 8.

[2] These words were substituted for " at the rate of 3½ per cent. of the annual letting value ", *ibid.*

[3] This proviso was added by Bom. 8 of 1947, s. 4.

[4] These words were substituted for the words " used for the purpose of one and the same business " by Bom. 23 of 1948, s. 13.

[5] The word " and " was deleted by Bom. 6 of 1942, s. 5, read with Bom. 23 of 1948, s. 4.

[6] The word " and " and clause (*e*) were inserted, *ibid.*

Explanation.—For the purposes of this section—

(*1*) the following buildings and lands or portions thereof shall not be deemed to be exlusively occupied for public worship or for charitable purposes, namely :—

(*a*) those in which trade or business is carried on ; and

(*b*) those in respect of which rent is derived, whether rent is or is not applied exclusively to religious or charitable purposes ;

(*2*) where any portion of any building or land is exempt from the Urban Immovable Property tax by reason of its being exclusively occupied for public worship or for charitable purposes, such portion shall be deemed to be a separate property ;

[1][(*3*) " open land " shall mean land which is not built upon or enclosed.]

Authorities competent to levy and collect Urban Immovable Property tax and the manner of such levy and collection.

24. (*1*) The Urban Immovable Property tax shall be [2]** collected—

(*a*) in the areas within the limits of a municipality to which this Part extends under section 20, by the municipality concerned, [3][notwithstanding any law under which such municipality is constituted;]

(*b*) in the area of the Cantonment of Ahmedabad, by the Collector of Ahmedabad [4][and in the areas of the Cantonments of Poona and Kirkee, by the Collector of Poona].

(*2*) The [5]* * collection of the Urban Immovable Property tax shall be made

(*a*) in any area within the limits of a municipality in the same manner in which the property tax [5]** collected in the said area, and

(*b*) in the [6][areas of the Cantonments of Ahmedabad, Poona and Kirkee,] as an arrear of land revenue :

Provided that if in any area within the limits of a municipality no property tax is levied by the municipality concerned, the Urban Immovable Property tax shall be [5]* * collected in such manner as may be prescribed.

Penalty for default in payment of the Urban Immovable Pro perty tax

Bom. XVII of 1939.

[7][**24A.** (*1*) If any person, on being served either before or after the coming into force of the Bombay Finance (Second Amendment) Act, 1939, with a notice of demand in the [8]* * collection of the Urban Immovable Property tax in the manner provided in sub-section (*2*) of section 24, fails to pay within the period mentioned in the notice, any amount due from him on account of the said tax, the municipality or the Collector of Ahmedabad [9][or Poona], as the case may be, may, subject to the general or special orders of the Provincial Government, recover from him as a penalty a sum not exceeding one-fourth of the amount of the tax so unpaid, in addition to the amount of such tax payable by him :

Provided that the municipality or the Collector, as the case may be, is satisfied that the person liable to pay the Urban Immovable Property tax has wilfully failed to pay the amount of such tax.

(*2*) Notwithstanding anything contained in sub-section (*1*), if the notice of demand in the [8]* *collection of the Urban Immovable Property tax has been served

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[1] Clause (3) in the Explanation was inserted by Bom. 6 of 1942, s. 5 read with Bom. 23 of 1948, s. 4.

[2] The words " levied and " were deleted by Bom. 1 of 1940, s. 4(*i*), read with Bom. 23 of 1948, s. 2.

[3] These words were inserted by Bom. 17 of 1939, s. 2. This provision shall be deemed to have come into force on 31st March 1939.

[4] These words were added by Bom. 9 of 1946, s. 5 (*i*), read with Bom. 23 of 1948, s. 8.

[5] The words " levy and " and the words " levied and " were deleted by Bom. 1 of 1940, s. 4 (*ii*), read with Bom. 23 of 1948, s. 2.

[6] These words were substituted for the words " area of the Cantonment of Ahmedabad " by Bom. 9 of 1946, s. 5 (*ii*) , read with Bom. 23 of 1948, s.8.

[7] Sections 24A and 24B were inserted by Bom. 17 of 1939, s. 3. These sections shall be deemed to have come into force on 31st March 1939.

[8] The words " levy and " were deleted by Bom. 1 of 1940 s. 5, read with Bom. 23 of 1948, s. 2.

[9] The words " or Poona " were inserted by Bom. 9 of 1946, s. 6, read with Bom. 23 of 1948, s. 8.

on any person before the coming into force of the Bombay Finance (Second Amendment) Act, 1939, no sum shall be recovered as a penalty under sub-section (*1*) unless the person on whom such notice has been served wilfully fails to pay the amount of the tax due within a period of 15 days from the date of the coming into force of the said Act or within the period mentioned in the notice, whichever period expires later. Bom. XVII of 1939.

(*3*) Sums recoverable under this section shall be recovered in the manner provided in section 24 for the recovery of the Urban Immovable Property tax.]

Collection of the Urban Immovable Property tax and recovery of the penalty to be made by the appropriate municipal authority.

[1][**24AA.** The collection of the Urban Immovable Property tax under section 24 and the recovery of the penalty under section 24A on behalf of any municipality shall be made by the appropriate municipal authority appointed to collect the property tax on behalf of such municipality under the law under which such municipality is constituted.]

The Urban Immovable Property tax to be a first charge on premises on which it is leviable.

[2][**24B.** Notwithstanding anything contained in any law and notwithstanding any rights arising out of any contract or otherwise howsoever, all sums due on account of the Urban Immovable Property tax levied under section 22 or as a penalty imposed under section 24A for failure to pay such tax, in respect of any building or land, shall, subject to the prior payment of the land revenue, if any, due to the Provincial Government thereon, be a first charge upon the said building or land and upon the moveable property, if any, found within or upon such building or land and belonging to the person liable for such tax or penalty.]

Municipality entitled to rebate for cost of collection.

25. A Municipality required to [3] * * collect the Urban Immovable Property tax under this Part shall be entitled for its cost of collection to such rebate as may be prescribed.

Primary responsibility for the Urban Immovable Property tax.

26. (*1*) The Urban Immovable Property tax shall be leviable primarily on the actual occupier of the buildings or lands upon which the said tax is assessed, if he is the owner of the buildings or lands, or holds them on a building or other lease granted by or on behalf of Government, or on a building or other lease from any person or local authority.

(*2*) In other cases the Urban Immovable Property tax shall be primarily leviable as follows :—

(*a*) if the property is let, upon the lessor ;

(*b*) if the property is sublet, upon the superior lessor ;

(*c*) if the property is unlet, upon the person in whom the right to let vests.

(*3*) On failure to recover any sum due on account of the Urban Immovable Property tax from the person primarily liable, there may be recovered from the occupier of any part of the buildings or lands in respect of which the tax is due such portion of the sum due as bears to the whole amount due the same ratio which the rent annually payable by such occupier bears to the aggregate amount of the annual letting value thereof.

(*4*) An occupier who makes any payment for which he is not primarily liable under this section shall be entitled to be reimbursed by the person primarily liable for the payment and may deduct the amount so paid from the amount of any rent from time to time becoming due from him to such person.

[1] This section was inserted by Bom. 1 of 1940, s. 6, read with Bom. 23 of 1948, s. 2.

[2] This section was inserted by Bom. 17 of 1939, s. 3.

[3] The words " levy and " were deleted by Bom. 1 of 1940, s. 7, read with Bom. 23 of 1948, s. 2.

27. [1][(*1*) When any building or land assessed to Urban Immovable Property tax is situated in the City of Bombay— Remission and refund.

Bom. III of 1888. (*a*) if a drawback of the property tax is sanctioned in respect of such building or land under section 158 of the City of Bombay Municipal Act, 1888, on or after 1st October 1939, or

Bom. III of 1888. (*b*) if a refund of the property tax is sanctioned in respect of such building or land or any portion thereof under section 175 of the City of Bombay Municipal Act, 1888, on or after 1st October 1939, or

Bom. III of 1888. (*c*) if such building or any portion thereof is demolished or removed, otherwise than by order of the Municipal Commissioner for the City of Bombay on or after 1st April 1939 and notice in respect of such demolition or removal has been given to the Commissioner under section 153 of the City of Bombay Municipal Act, 1888, the Municipal Corporation of the City of Bombay shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed.]

Bom. III of 1901. Bom. XVIII of 1925. [1][(*1A*) When any building or land assessed to Urban Immovable Property tax is situated in any Municipal area other than the City of Bombay, if a remission or refund of the property tax is granted in respect of such building or land under sub-section (*2*) of section 69 of the Bombay District Municipal Act, 1901, or sub-section (*2*) of section 86 of the Bombay Municipal Boroughs Act, 1925, as the case may be, the Municipality, concerned shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed.]

II of 1924. (*1B*) When any building or land assessed to Urban Immovable Property tax is situated in the Cantonment of Ahmedabad, [2][Poona or Kirkee] if a remission or refund of the property tax is granted in respect of such building or land under section 75, 76 or 77 of the Cantonments Act, 1924, the Collector of Ahmedabad [3][or Poona, as the case may be], shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed.

(*2*) The burden of proving facts entitling any person to claim relief under this section shall be upon him.

28. (*1*) If any municipality makes default in the [4]* collection or payment to the Provincial Government of any sum due in respect of the Urban Immovable Property tax, the Provincial Government may, after holding such inquiry as it thinks fit, fix a period for the [4]* collection or payment of such sum. Default of municipality.

(*2*) If the [4]* collection or payment of such amount is not made within the period so fixed, the Provincial Government may, [5][notwithstanding any law relating to the funds vesting in such municipality or any other law for the time being in force,] direct any bank in which any moneys of the municipality are deposited or the person

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[1] Sub-sections (*1*), (*1A*) and (*1B*) were substituted for the original sub-section (*1*) by Bom. 4 of 1941, s. 6 (*1*) read with Bom. 23 of 1948, s. 3. Sub-sections (*2*) and (*3*) of Bom. 4 of 1941 read as follows :—

(*2*) The amendments made by this section in section 27 of the said Act shall be deemed to have been made and to have taken effect from the 1st day of April 1939.

(*3*) Notwithstanding anything contained in section 27 of the said Act as amended by this section, no claim for remission or refund of any portion in the Urban Immovable Property tax, levied in respect of any building or land for any period prior to the date of the coming into force of this Act, shall be admitted, if remission or a refund of a portion of such tax levied for such period has been granted before such date.

[2] These words were inserted by Bom. 9 of 1946, s. 7 (*i*), read with Bom. 23 of 1948, s. 8.

[3] These words were inserted, *ibid*, s. 7 (*ii*), read with Bom. 23 of 1948, s. 8.

[4] The word " levy " was deleted by Bom. 1 of 1940, s. 8, read with Bom. 23 of 1948, s 2.

[5] These words were inserted by Bom. 17 of 1939 s. 4. This provision shall be deemed to have come into force on 31st March 1939.

in charge of the Government treasury or of any other place of security in which the moneys of the municipality are deposited to pay such sum from such moneys as may be standing to the credit of the municipality in such bank or as may be in the hands of such person or as may from time to time be received from or on behalf of the municipality by way of deposit by such bank or person; and such bank or person shall be bound to obey such order.

(*3*) Every payment made pursuant to an order under sub-section (*2*) shall be a sufficient discharge to such bank or person from all liability to the municipality in respect of any sum so paid by it or him out of the moneys of the municipalities so deposited with such bank or person.

Application of Part VI to certain areas subject to certain modifications.

[1][28A. (*1*) The provisions of this Part shall continue to extend to any area specified in clause (*iv*) of section 20 notwithstanding such area ceasing to be a notified area, and being declared to be a municipal district under section 4 of the Bombay District Municipal Act, 1901, or a village under section 4 of the Bombay Village Panchayats Act, 1933. Bom. III of 1901. Bom. VI of 1933.

(*2*) If such area is declared to be a municipal district, the provisions of this Part shall, after such declaration, apply to such area in such manner as they apply to any municipal area specified in clause (*iii*) of the said section 20.

(*3*) If such area is declared to be a village under section 4 of the Bombay Village Panchayats Act, 1933, the provisions of this Part shall after such declaration apply to such area subject to the following modifications :— Bom. VI of 1933.

(*i*) in section 21—

(*1*) after sub-clause (*b*) in clause (*1*), the following new sub-clause shall be inserted, namely :—

"(*bb*) in villages the annual letting value, determined in the manner prescribed ;"

(*2*) in clause (*2*)—

(*a*) after the word "have" where it occurs for the first time the words "in the municipal areas and in the [2][areas of the Cantonments of Ahmedabad, Poona and Kirkee]" shall be inserted ; and

(*b*) after the words "as the case may be" the following shall be inserted, namely :—

"and in villages the same meanings as the words houses and lands have in the Bombay Village Panchayats Act, 1933". Bom. VI of 1933.

(*3*) after clause (5), the following new clause shall be inserted, namely :—

'(*5A*) "Panchayat" means a panchayat established under the Bombay Village Panchayats Act, 1933'; and Bom. VI of 1933.

(*4*) after clause (8) the following new clause shall be inserted, namely :— Bom. VI of 1933.

'(*9*) "Village" means a village as defined in clause (16) of section 3 of the Bombay Village Panchayats Act 1933 [1];

(*ii*) in section 22 in the second proviso after the words "Provided further that" the words "in the municipal areas and in the [2][areas of the Cantonments of Ahmedabad, Poona and Kirkee]" shall be inserted ;

(*iii*) in section 23 in clause (*c*) after the words "local board" the words "or a Panchayat" shall be inserted ;

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[1] This section was inserted by Bom. 4 of 1941, s. 7, read with Bom. 23 of 1948, s. 3:

[2] These words were substituted for the words "area of the Cantonment of Ahmedabad" by Bom. of 1946, s. 8 (*i*), read with Bom. 23 of 1948, s. 8.

(*iv*) in section 24—

(*1*) in sub-section (*1*) after clause (*b*) the following new clause shall be inserted, namely :—

" (*c*) in the areas within the limits of a village by the Collector or by such officer as he may authorise in this behalf " ; and

(*2*) in sub-section (*2*) in clause (*b*) after the word [1][Kirkee] " the words " and in any area within the limits of a village " shall be inserted ;

(*v*) in section 24A in sub-section (*1*) for the words " Collector of Ahmedabad [2][or Poona] " the words " Collector concerned " shall be substituted ;

(*vi*) in section 27 after sub-section (*1B*) the following new sub-section shall be inserted, namely :—

" (*1C*) When any building or land assessed to Urban Immovable Property tax is situated in any village, if a remission or refund of the tax, levied on the owner or occupier of such building or land under the Bombay Village Panchayats Act, 1933, is granted under the said Act or the rules made thereunder, the Collector concerned shall remit or refund such portion of the Urban Immovable Property tax, in such manner and subject to such conditions as may be prescribed " ; and

Bom. VI of 1933.

(*vii*) in section 29 in sub-section (*2*), after the words " following matters " the following new clause shall be inserted, namely :—

" (*aa*) the manner in which the annual letting value of buildings and lands in villages shall be determined ; "

(*4*) If any portion of the Urban Immovable Property tax due in respect of any building or land situate within any such notified area for any period prior to its ceasing to be a notified area has remained in arrears on the date on which such area ceased to be a notified area, such portion shall, notwithstanding anything contained in this Part or any law for the time being in force, be collected by the same authority by which and in the same manner in which such tax due in respect of the said building or land after such date may be collected.]

Rules.

29. (*1*) The Provincial Government may make rules for carrying out the purposes of this Part.

(*2*) Without prejudice to the generality of the foregoing provision such rules shall provide for the following matters :—

(*a*) the manner in which the Urban Immovable Property tax shall be [3]** collected in any municipal area in which no property tax is levied ;

(*b*) the amount of rebate to which a municipality or other authority would be entitled under section 25 for the cost of collection of the Urban Immovable Property tax ;

(*c*) the time at and the manner in which the amount of the Urban Immovable Property tax collected shall be paid to the Provincial Government ;

(*d*) the portion of the Urban Immovable Property tax which shall be refunded or remitted, and the manner in which, and the conditions subject to which, such remission or refund shall be granted ;

(*e*) such other matters which in the opinion of the Provincial Government are required to be prescribed by rules.

(*3*) The rules made under this section shall be subject to the condition of previous publication.

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[1] This word was substituted for the word " Ahmedabad " by Bom. 9 of 1946, s. 8 (*ii*), read with Bom. 23 of 1948, s. 8.

[2] These words were inserted, *ibid.*

[3] The words " levied and " were deleted by Bom. 1 of 1940, s. 9, read with Bom. 23 of 1948, s. 2.

[1][PART VII.

Newspaper Advertisements Tax.

Extent of Part VII.

30. This Part extends to the whole of the Province of Bombay.

Definitions.

31. In this Part, unless there is anything repugnant in the subject or context,—

(*a*) "advertisement" means a public notice or announcement in a newspaper, whether by means of written matter or illustration, in connection with any business, trade, industry, calling, profession or employment and shall include any notice or announcement—

(*i*) declaring the sale, purchase, exchange, lease, hire or any other kind of transfer of any tangible or intangible, moveable or immovable property or any other kind of property whatsoever,

(*ii*) containing or inviting offers for the sale, purchase, exchange, lease, hire or any other kind of transfer of any property referred to in sub-clause (*i*),

(*iii*) containing a prospectus issued by a company allotting or agreeing to allot its shares or debentures with a view to their being offered to the public,

(*iv*) containing or inviting offers for service, employment, work or labour,

(*v*) relating to a prize competition as defined in the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948, Bom. LIV of 1948.

(*vi*) relating to the holding of any horse-race as defined in the Bombay Race-courses Licensing Act, 1912, Bom. III of 1912.

(*vii*) relating to entertainments or amusements,

(*viii*) containing or inviting offers for the purpose of advancing or obtaining loans,

(*ix*) of such other kind as may be specified by the Provincial Government by notification in the *Official Gazette* relating to any matter from which profits or gains are expected to accrue to, or be received personally by, or for the personal benefit of, any person on whose behalf the notice or announcement is published in a newspaper;

(*b*) "manager" includes editor, publisher, managing director or any other person in whatever capacity responsible for the publication of a newspaper;

(*c*) "newspaper" includes any journal, magazine or other periodical publication;

(*d*) "prescribed" means prescribed by rules made under this Part.

Levy of newspaper advertisements tax.

32. There shall from the 1st day of April 1949 be levied and paid to the Government of Bombay a tax at the rate of one anna in the rupee paid or payable in respect of any advertisement appearing in any newspaper published in the Province of Bombay.

Returns.

33. (*1*) Every manager shall furnish to the prescribed authority, before the tenth of each month, a return stating the total receipts from the advertisements appearing in his newspaper during the preceding month together with such further information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of tax.

34. (*1*) On receiving any return under section 33, the prescribed authority shall assess the amount of tax payable in respect of the period to which the return relates, and if the amount has not already been paid shall cause a notice to be served upon the manager requiring him to make payment of the amount assessed, within ten days of the service of the notice.

[1]This Part was added by Bom. 2 of 1949, s. 9.

(*2*) If the manager fails to furnish in due time the return referred to in section 33 or furnishes a return which in the opinion of the prescribed authority is incorrect or defective, the prescribed authority shall assess the amount payable by him in such manner as may be prescribed and the provisions of sub-section (*1*) shall apply as if such assessment has been made on the basis of a return furnished by the manager:

Provided that, in the case of a return which the prescribed authority has reason to believe is incorrect or defective, the prescribed authority shall not assess at an amount higher than that at which it is assessable on the basis of the return without giving to the manager a reasonable opportunity of proving the correctness or completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the manager by post or by delivering it or tendering it to the manager or his agent.

Finality of assessment and recovery of unpaid tax.

35. (*1*) An assessment made in accordance with the provisions of section 34 shall not be questioned in any Court.

(*2*) Any manager aggrieved by an assessment made under section 34 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the prescribed appellate authority for the cancellation or modification of the assessment and, on such application the prescribed appellate authority may cancel or modify the assessment and order the refund to such manager of the whole or part, as the case may be, of any amount paid thereunder.

(*3*) Any amount recoverable under section 34 may be recovered as an arrear of land revenue.

Exemptions.

36. The Provincial Government may, by notification in the *Official Gazette* exempt, either totally or partially, any advertisement or class of advertisements from the payment of the tax.

Power to inspect and to take copies of records and accounts of newspapers.

37. (*1*) The prescribed authority shall have free access at all reasonable times during working hours to any premises in which a newspaper is published or printed.

(*2*) Such authority may at any time, with or without notice to the manager, examine the records and accounts kept in respect of any newspaper and take copies of or extracts from all or any of the said records or accounts for purposes of testing the accuracy of any return or of informing himself as to the particulars regarding which information is required for the purposes of this Part or any rules made thereunder.

Information acquired to be confidential.

38. (*1*) All such copies and extracts and all information acquired by the prescribed authority from an inspection of any premises or from any return submitted under this Part shall be treated as confidential.

(*2*) If, save as provided in sub-section (*3*), the prescribed authority discloses to any person any such information as aforesaid without the previous sanction of the Provincial Government, he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Part.

Penalties.

39. If any person liable under section 33 to submit a return—

(*a*) fails, without sufficient cause, to submit the same within the time specified in the said section or in the prescribed manner or submits a false return, or

(*b*) obstructs any person duly authorised in this behalf in the exercise of his powers and duties under this Part or the rules made thereunder,

he shall, on conviction, be punished with fine which may extend to one thousand rupees.

Power to make rules.

40. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Part.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following matters, namely :—

(a) the further information to be furnished under section 33, the authority to which and the form in which such return shall be furnished and the manner in which it shall be verified ;

(b) the manner in which the amount payable under section 34 shall be assessed ;

(c) the appellate authority to whom an application for cancellation or modification of the assessment shall be made under section 35 ;

(d) any other matter which is to be or may be prescribed.

(3) In making a rule under this section, the Provincial Government may provide that a breach thereof shall be punishable with fine which may extend to fifty rupees.

(4) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.]

[1][PART VIII

OTHER TAXES.

Amendment of Bom. I of 1923.

[2][41]. In the Bombay Entertainments Duty Act, 1923, for sub section (1) of section 3, the following shall be substituted, namely :— Bom. I of 1923.

"(1) There shall from the 1st day of April 1948 be levied and paid to the Government of Bombay on all payments for admission to any entertainment a duty (hereinafter referred to as 'entertainments duty') at the following rate, namely :—

Where the payment, excluding the amount of duty, is made for admission to a race course licensed under the Bombay Race Course Licensing Act, 1912, $37\frac{1}{2}$ per cent. of such payment, and in any other case, Bom. III of 1912.

where the payment, excluding the amount of the duty—

(i) does not exceed four annas ...	one anna.
(ii) exceeds four annas but does not exceed eight annas.	two and half annas.
(iii) exceeds eight annas but does not exceed one rupee.	five annas.
(iv) exceeds one rupee but does not exceed two rupees.	ten annas.
(v) exceeds two rupees but does not exceed four rupees.	one rupee and four annas.
(vi) exceeds four rupees but does not exceed five rupees.	two rupees.
(vii) exceeds five rupees but does not exceed ten rupees.	two rupees and eight annas.
(viii) exceeds ten rupees; for every five rupees or part thereof in excess of the first ten rupees, in addition to the payment on the first ten rupees.	two rupees and eight annas."

Amendment of Bom. VI of 1925.

[2][42]. In the Bombay Betting Tax Act, 1925,— Bom. VI of 1925.

(a) in section 5, for the figures and words "10 per cent." the figures and words "$12\frac{1}{2}$ per cent." shall be substituted ;

(b) in section 8 for the figures and words "10 per cent." the figures and words "$12\frac{1}{2}$ per cent." shall be substituted.]

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[1] This Part which was renumbered as VIII by Bom. 2 of 1949 was added by Bom. 23 of 1948, s. 14.

[2] This section was renumbered by Bom. 2 of 1949, s. 9.

THE BOMBAY COTTON CONTRACTS ACT, 1932

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PREAMBLE.

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1. Short title.
2. Extent and operation.
3. Definitions.
4. Recognition.
5. Recognised association to have Board of Directors: Power to make by-laws.
6. Power of Board of Directors to make by-laws.
7. Publication of by-laws.
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10. [*Repealed.*]
11. Bar of suits and proceedings against officers, etc.
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*BOMBAY ACT No. IV OF 1932.[1]

[THE BOMBAY COTTON CONTRACTS ACT, 1932.]

[*28th October 1937.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Repealed in part by Bom. 17 of 1938.

An Act to provide for the better regulation and control of transactions in Cotton in Bombay.

WHEREAS it is expedient to provide for the better regulation and control of transactions in cotton and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 and 6 Geo. V. c. 61.

1. This Act may be called the Bombay Cotton Contracts Act, 1932. Short title.

2. (*1*) This Act shall apply to the City of Bombay and the Island of Salsette. Extent and operation.

(*2*) It shall come into operation on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], direct.

[4]* * * *

3. In this Act, unless there is anything repugnant in the subject or context, Definitions.

(*a*) "Bombay" means the City of Bombay and the Island of Salsette;

[5]* * * *

(*c*) "Board of Directors" means a board of directors of a recognised cotton association constituted under section 5 and acting through at least a quorum of their members at a meeting of that board duly called and constituted;

(*d*) "Certified godown" means a godown maintained by a cotton association for storing cotton certified under the by-laws af the association;

(*e*) "Contract" means a contract made or to be performed in whole or in part in Bombay relating to the sale or purchase of cotton and includes options in cotton, but does not include such contracts as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*,] declare to be excluded from the provisions of this Act;

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*On the date on which an association is recognised under section 3 of the Bombay Forward Contracts Control Act, 1947, in the City of Bombay and the Island of Salsette in respect of cotton, this Act shall cease to have force in each area. (*Vide* Bom. 64 of 1947 s. 14 (*1*).)

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 139-140; for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] Sub-section (*3*) was deleted by Bom. 17 of 1938, s. 2 and First Sch.

[5] This clause was deleted, *ibid.*

(*f*) "Cotton Association" means any association, organisation or a body of individuals, whether incorporated or not, established or formed for the purpose of regulating and controlling business in the sale, purchase or other transactions in cotton;

(*g*) "Forward contract" means a contract for the delivery of cotton at some future date;

(*h*) "Option in cotton" means a contract made or to be performed in whole or in part in Bombay for the purchase or sale of a right to buy, or a right to sell or a right to buy or sell cotton in future, and includes a *teji*, a *mandi* or a *teji-mandi* in cotton;

(*i*) "Ready contract" means a contract in which immediate delivery of cotton is contemplated;

(*j*) "Recognised cotton association" means a cotton association which is for the time being recognised by the [1][Provincial Government], as provided in section 4.

Recognition.

4. (*1*) A cotton association, desirous of being recognised for the purposes of this Act, shall make an application in writing to the [1][Provincial Government] for such recognition and shall submit by-laws for the regulation and control of transactions in cotton and furnish such information in regard to such recognition as the [1][Provincial Government] may from time to time require.

(*2*) The [1][Provincial Government] may give or refuse such recognition.

(*3*) The [1][Provincial Government] shall refuse recognition unless—

(*a*) it is provided in the by-laws submitted by the cotton association under sub-section (*1*) that not less than one-fourth of the total number of the Board of Directors of the cotton association applying for recognition shall be growers of cotton to be appointed in the manner prescribed in the said by-laws and approved by the [1][Provincial Government]; and

(*b*) the [1][Provincial Government] is satisfied that the sole possession and effective management, control and regulation of the markets of the cotton association applying for recognition and of the market places of the said cotton association are vested in the said cotton association.

(*4*) The [1][Provincial Government] shall also refuse recognition unless the by-laws submitted by the cotton association under sub-section (*1*) shall have been published in the [2][*Official Gazette*] at least one month before the date of such recognition:

Provided that when, in the opinion of the [1][Provincial Government], the conditions precedent to recognition specified in sub-clauses (*a*) and (*b*) of sub-section (*3*) are satisfied in the case of a cotton association applying for recognition under sub-section (*1*) and the by-laws of the said cotton association are similar in all other material respects to the articles and by-laws of the East India Cotton Association, Limited, deemed or which have been deemed under the provisions of sub-section (*7*) to be by-laws of a recognised cotton association the [1][Provincial Government] may dispense with the publication, required under this sub-section of the by-laws of the cotton association applying for recognition and may give recognition to such association and the by-laws of such association shall then be deemed to be by-laws published under the provisions of this sub-section.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid*.

(5) When the [1][Provincial Government] has dispensed with the publication of the by-laws of a cotton association and has given recognition to such association under the provisions of the proviso to sub-section (4), such by-laws shall be published in the [2][*Official Gazette*] next following the giving of recognition to such association.

(6) The [1][Provincial Government] may, at any time after having given to a cotton association an opportunity to explain why recognition should not be withdrawn, withdraw the recognition given to the said cotton association and such cotton association shall thereupon cease to be a recognised cotton association.

(7) It is hereby declared that the East India Cotton Association, Limited, is a recognised cotton association for the purposes and subject to the provisions of this Act and the articles and by-laws of the said Association shall, so far as they relate to matters for which by-laws may be made under the provisions of sections 5 and 6, be deemed to be by-laws of a recognised cotton association:

Provided that, if, within such time after the coming into operation of this Act as the [1][Provincial Government] shall by order in writing specify, the said Association shall not have complied with the conditions precedent to recognition specified in clauses (*a*) and (*b*) of sub-section (3), the said association shall cease to be a recognised cotton association and the said articles and by-laws of the said association shall cease to be by-laws of a recognised cotton association:

Explanation.—A grower of cotton shall not include a person who deals in forward contracts.

Recognised association to have Board of Directors: power to make by-laws.

5. (1) [3]* * * * * In every recognised cotton association there shall be a Board of Directors. Subject to the sanction of the [1][Provincial Government], a recognised cotton association may make and may from time to time add to, vary or rescind by-laws providing for—

(*a*) the constitution of the Board of Directors,

(*b*) the powers and duties of the Board of Directors and the manner in which its business shall be conducted,

(*c*) the number and constitution of electoral panels and the representation upon such panels, and

(*d*) the method of appointment of members to the Board of Directors.

(2) By-laws made, added to, varied or rescinded under sub-section (1) shall be laid [4][before each of the Chambers of the Provincial Legislature] at the session [5][thereof] next following and shall be liable to be modified or rescinded by a resolution [6][in which both Chambers concur]. If any by-law is so modified or rescinded, the [1][Provincial Government] may sanction such modified by-law and re-publish the same accordingly or may sanction such rescission.

Power of Board of Directors to make by-laws.

6. (1) The Board of Directors may, subject to the sanction of the [1][Provincial Government], make and, from time to time, add to, vary or rescind by-laws for the regulation and control of transactions in cotton.

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[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "Subject to the provisions of section 9", were deleted by Bom. 17 of 1938, s. 2 and First Schedule.

[4] These words were substituted for the words "upon the table of the Bombay Legislative Council," *ibid.*

[5] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[6] These words were substituted for the words "of the said Council", *ibid.*

(2) In particular and without prejudice to the generality of the foregoing provision such by-laws may provide for—

(*a*) the admission of various classes of members of a recognised cotton association and the exclusion, suspension, expulsion and re-admission of such members;

(*b*) the opening and closing of markets in cotton and the times during which such markets shall be opened or closed and regulating the hours of trade;

(*c*) a clearing house for the periodical settlement of contracts or differences thereunder and for the passing on of delivery orders and for any purpose in connection with options in cotton, and the regulation and maintenance of such clearing house;

(*d*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house;

(*e*) fixing, altering or postponing settling days;

(*f*) determining and declaring the market rates for cotton of any and every description;

(*g*) the terms, conditions and incidents of contracts and the forms of such contracts as are in writing;

(*h*) regulating the making performance and cancellation of contracts, including contracts between a commission agent and his constituent, or between a broker and his constituent, or between a jethawala or muccadum and his constituent, or between a member and a non-member of a recognised cotton association, and the consequences of insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the rsponsibility of commission agents, muccadums and brokers not parties to such contracts;

(*i*) the prohibition of specified classes or types of dealings in cotton by a member of a recognised cotton association;

(*j*) the settlement of claims and disputes by arbitration and appeals against awards;

(*k*) the levy and recovery of subscriptions, fees, fines and penalties;

(*l*) disciplinary measures against members of a recognised cotton association, including suspension, expulsion, fines and non-monetary penalties, for breach of any by-law made by the Board of Directors;

(*m*) regulating the course of business between parties to contracts in any capacity;

(*n*) the institution, maintenance and control of certified godowns; and

(*o*) regulating the making, performance and cancellation of option in cotton.

(3) If any person committing a breach of any by-law of a recognised cotton association is a company, every director and officer of such company shall also be deemed to have committed such breach, unless he proves that the breach was committed without his knowledge and control.

Publication of by-laws.

7. By-laws made under section 5 or 6 shall be subject to the condition of previous publication and, when sanctioned by the [1][Provincial Government], shall be published in the [2][*Official Gazette*].

Viod contracts.

8. (*1*) Save as hereinafter provided in this Act, any contract (whether either party thereto is a member of a recognised cotton association or not) which is entered into after the date on which this Act comes into operation and which is not in accordance with the by-laws of any recognised cotton association shall be void.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*2*) No claim shall be allowed in any court for the recovery of any commission, brokerage, fee or reward in respect of any such contract.

9. [*Supersession of Board of Directors and appointment of Board of Control, its powers and duties*] *Rep. by Bom.* 17 *of* 1938, *s.* 2 *and First Schedule.*

10. [*Prohibition of certain contracts after appointment of the Board of Control*] *Rep. by Bom.* 17 *of* 1938 *s.* 2 *and First Schedule.*

11. No suit, prosecution or other legal proceedings whatsoever shall be entertained in any court against any officer or servant of a recognised cotton association [1]* * * for anything in good faith done or intended to be done in pursuance or execution of this Act or by-laws made thereunder. Bar of suits and proceedings against officers, etc.

12. (*1*) Contacts entered into under the provisions of the Bombay Cotton Contracts Act, 1922 shall, be deemed to be valid, except in so far as they may be inconsistent with any of the provisions of this Act and by-laws made thereunder. Savings. Bom. XIV of 1922.

(*2*) Forward contracts entered into before the date when this Act comes into operation and which would not have been void under the provisions of the Bombay Cotton Contracts Act, 1922, shall not be deemed to be void merely because they contravene the provisions of this Act and by-laws made thereunder. Bom. XIV of 1922.

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[1] The words "or Board of Control" were deleted by Bom. 17 of 1938, s. 2 and First Schedule.

BOMBAY ACT No. IX OF 1932.[1]

[THE PROVINCIAL SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1932.]

[*10th November 1932.*]

An Act further to amend the Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay.

IX of 1887. WHEREAS it is expedient further to amend the [2]Provincial Small Cause Courts Act, 1887, in its application to the Presidency of Bombay; It is hereby enacted as follows :—

1. This Act may be called the Provincial Small Cause Courts (Bombay Amendment) Act, 1932. Short title.

2. In sub-clause (*a*) of clause 4 in the Second Schedule to the said Act, between the words " a written instrument " and " and " the following words shall be inserted namely :— Amendment of the Second Schedule to Act IX of 1887.

" or orally ".

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1931, Pt. V, pp. 243-244; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1931, Vol. XXXII, 1932, Vol. XXXV.

[2] *See* Central Acts.

THE BOMBAY WEIGHTS AND MEASURES ACT, 1932.

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[THE BOMBAY WEIGHTS AND MEASURES ACT, 1932.]

[*1st December 1932.*]

Amended by Bom. 9 of 1935.
" " " 33 of 1935.
" " " 22 of 1936.
" " " 5 of 1937.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 1 of 1939.
" " " 15 of 1947.
" " " 56 of 1948.

An Act to fix a scale of standard weights and measures for the Presidency of Bombay.

WHEREAS it is expedient to fix a scale of standard weights and measures for the presidency of Bombay and to provide for the adoption of the same in specified areas in the said presidency [2][and for certain other matters hereinafter appearing]; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

PART I.

PRELIMINARY.

1. This Act may be called the Bombay Weights and Measures Act, 1932. Short title.

2. (*1*) This Act shall apply to the whole of the presidency of Bombay. Extent and commencement.

(*2*) Part I shall come into force at once. Government may, by notification in the [3][*Official Gazette*], direct that Parts II, III, V and VI shall come into force in any district or municipal area on a date to be specified in such notification.

(*3*) When Government has directed that Parts II, III, V and VI shall come into force in any district or municipal area under sub-section (*2*), Part IV shall come into force in such district or municipal area three months after the dates specified in the notification.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Inspector" means an inspector of weights and measures and weighing or measuring instrument, appointed under section 19;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 126-130; for Report of the Select Committee, *see ibid*, 1932, Pt. V, pp. 126-130; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV.

[2] These words were inserted by Bom. 56 of 1948, s. 2.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*2*) "Measuring instrument" includes any instrument for the measurement of length, area, capacity or volume;

(*3*) "Mint" means His Majesty's Mint, Bombay;

(*4*) "Mint Master" means the officer appointed for the time being to be the Master of the Mint, Bombay;

(*5*) "Prescribed" with its grammatical variations means prescribed by rules or regulations made under this Act;

(*6*) "Primary standards" mean the weights and measures prepared and stamped under section 5;

(*7*) "Rules" and "regulations" mean the rules and regulations made under section 41 and section 42, respectively;

(*8*) "Secondary standards" mean the weights and measures prepared and stamped under section 7;

[1] [(*8A*) "Stamping" includes casting, engraving, etching, branding, or otherwise marking in such manner as to be, so far as practicable, indelible and the expression "stamp" and other expressions relating thereto shall be construed accordingly;]

(*9*) The expression "verification" or "reverification" with its grammatical variations, used with reference to a weight or measure or weighing or measuring instrument, includes the process of comparing, checking or testing such weight or measure or weighing or measuring instrument;

(*10*) "Weighing instrument" includes scales, with the weights belonging thereto, scale beams, balances, spring balances, steelyards, weighing machines, and other instruments for weighing; and

(*11*) "Working standards" mean the weights and measures provided under section 9;

[2] [(*12*) "Government" means in relation to the establishment of standards of weight, the Central Government, and save as aforesaid means, the Provincial Government.]

PART II.

Standards of Weights and Measures.

Standard weights and measures.

4. [3](*1*) The weights and measures including the multiples and sub-multiples thereof described in the First Schedule shall be the weights and measures authorised to be used in every place in which this Part has come into force. These weights and measures are called standard weights and measures for the purposes of this Act.

[4] [(*2*) Notwithstanding anything contained in sub-section (*1*), Government may, after previous publication by notification in the [5][*Official Gazette*], declare, either generally or for any trade or class of trades—

(*a*) any other multiple or sub-multiple of a weight or measure specified in the First Schedule, or

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[1] This clause was inserted by Bom. 56 of 1948, s. 3.
[2] Sub-section (*12*) was inserted by the Adaptation of Indian Laws Order in Council.
[3] Section 4 was renumbered as sub-section (*1*) of that section by Bom. 33 of 1935 s. 2.
[4] Sub-section (*2*) was added, *ibid.*
[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

(*b*) any other weight or measure, or any multiple or sub-multiple thereof, to be a weight or measure authorised to be used in any place in which this Part has come into force.

The weight, measure, multiple or sub-multiple shall, to the extent so declared, be deemed to be a standard weight or measure for the purposes of this Act.]

Primary standards.

5. For the purpose of verifying the secondary standards, such standard weights and measures as Government may direct shall be prepared [1]* * * by the Mint Master [2][or by such other person as may be approved by Government]. They shall be made of such material, weight, length, form and specifications and in such manner as may be determined by Government by notification in the [3][*Official Gazette*]. They shall be stamped with the stamp of the Mint [4][or in such other manner as Government may approve]. The standard weights and measures so prepared and stamped shall be called primary standards.

Custody of primary standards.

6. The primary standards shall be kept in the custody of such officer in the City of Bombay as Government may direct. They shall, once at least in every period of five years, be verified, and if necessary, adjusted or renewed, at the Mint in such manner and by such officer as Government may direct.

Secondary standards.

7. For the purpose of verifying the working standards and weights and measures in use in any area, such standard weights and measures as Government may direct, shall be prepared [5]* * * by the Mint Master [6][or by such other person as may be approved by Government]. They shall be made of such material, weight, length, form and specifications and in such manner as may be prescribed and shall be stamped with the stamp of the Mint [7][or in such other manner as Government may approve]. The standard weights and measures so prepared and stamped shall be called secondary standards.

Custody and verification of secondary standard

8. (*1*) The secondary standards shall be kept—

(*i*) in the City of Bombay by such officer and at such place as Government may direct;

(*ii*) elsewhere by the Collectors in the Government treasuries at the head-quarter towns of their respective districts and at such other town or place within their respective districts as Government may direct.

(*2*) Government may direct any municipality or district local board to keep the secondary standards at such places, in such custody and in such manner as may be prescribed.

(*3*) Once at least in every period of five years such secondary standards shall be verified with the primary standards and shall be adjusted or renewed, if necessary, and shall be marked with the date of verification, in the prescribed manner by such officer as Government may direct.

(*4*) A secondary standard which is not so verified, adjusted or renewed and marked within the aforesaid period shall not be deemed legal and shall not be used for the purposes of this Act.

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[1] The words "at the Mint" were omitted by Bom. 9 of 1935, s. 2 (*1*).

[2] These words were inserted, *ibid.*

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 9 of 1935, s. 2 (*2*).

[5] The words "at the Mint" were omitted, *ibid*, s. 3 (*1*).

[6] These words were inserted, *ibid.*

[7] These words were inserted, *ibid*, s. 3 (*2*).

Working standards.

9. (*1*) For the purpose of verifying weights and measures in use in any area, Government may provide such standard weights and measures as it thinks fit, to be working standards. They shall be made of such material, weight, length, form and according to such specifications and shall be prepared by such agency and shall be stamped by such person and in such manner as may be prescribed. When they are not prepared at the Mint, they shall be verified with the secondary standards before being stamped.

(*2*) The working standards shall be kept by such officers and such municipalities and local boards as Government may direct, at such places, in such custody and in such manner as may be prescribed.

(*3*) A working standard shall be verified or re-verified and marked by such person, at such place and in such manner, as may be prescribed.

(*4*) A working standard shall not be deemed legal, or be used for the purposes of this Act, unless it has been verified or re-verified and marked in the prescribed manner within such period as may be prescribed before the time at which it is used.

A working standard which has become defective shall not be legal, or be used for the purposes of this Act, until it has been re-verified and marked in the prescribed manner.

Weighing and measuring instruments.

10. Weighing and measuring instruments stamped in the manner prescribed by such officer as Government may direct shall be kept at all places where secondary standards or working standards are kept. Such instruments shall be of such kind, kept in such number and shall be verified, adjusted or renewed in such manner as may be prescribed.

Duty of certain municipalities and local boards to provide and maintain secondary standards, etc.

11. Where Government has directed a municipality or local board to keep the secondary standards under sub-section (*2*) of section 8, the working standards under sub-section (*2*) of section 9 and weighing or measuring instruments under section 10, the municipality or local board so directed, as the case may be, shall provide and maintain the said secondary standards, working standards or weighing or measuring instruments.

Use of standard weights and measures for particular trades.

[1][**11A.** (*1*) Government may, by notification in the *Official Gazette*, declare that such standard weights or measures or weighing or measuring instruments shall, notwithstanding anything contained in this Act, be used for such trade or class of trades in such area from such date and subject to such conditions as may be specified in the notification.

(*2*) On and from the date specified in the notification under sub-section (*1*), no weight or measure or weighing or measuring instrument other than the one specified in such notification shall be used in such trade or class of trades.]

Prohibition of weights and measures other than standard weights and measures.

12. (*1*) Subject to the provisions of section 46, and notwithstanding anything contained in any law for the time being in force, all dealings or contracts, had or made in any area after this Part shall have come into force in the said area for any work to be done or goods to be sold or delivered by weight or measure, shall be deemed to be had or made according to one of the standard weights or measures or to multiples [2][or sub-multiples] thereof and it shall not be lawful to use any other weight or measure in relation to any such dealing or contract.

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[1] This section was inserted by Bom. 56 of 1948, s. 4.

[2] The words " or sub-multiples " were inserted by Bom. 33 of 1935, s. 3.

(*2*) Any dealing or contract had or made in contravention of the provisions of sub-section (*1*) so far as it contravenes the said provisions shall be void unless it is proved that such dealing or contract was had or made without intention to contravene the said provisions.

Explanation.—Unless there is anything repugnant in the subject or context, dealing or contract is hereinafter called "trade."

[1][**12A.** Any custom, usage, practice or method of whatever nature which permits in any trade a seller or a buyer to demand, receive or cause to be demanded or received any quantity of article in excess of or less than the quantity fixed by the weight or measure by which the contract or dealing for the sale of the said article has been made shall be void.] Custom for excess or less quantity to be demanded or received void.

PART III.

Verification and Stamping of Weights and Measures.

13. Every weight which conforms to the provisions of this Act and [2][Denomination] the rules and regulations except where the small size of the weight renders it impracticable, shall have the denomination thereof stamped on the top or side thereof in legible figures and letters. Every measure of length, area, capacity or volume, which conforms to the provisions of this Act and the rules and regulations shall have the denomination thereof stamped on the outside of such measure in legible figures and letters. A weight or measure which does not conform to the provisions of this section shall not be stamped in accordance with the provisions of this Act and the rules and regulations.

14. (*1*) No weight or measure shall be used for trade unless it has been verified or re-verified in the prescribed manner and stamped by an inspector with a stamp of verfication under this Act. Stamping and verification of weights and measures.

(*2*) Government may prescribe the amount of error to be tolerated in weights or measures or weighing or measuring instrument used for trade.

15. No weighing or measuring instrument shall be used for trade unless it has been verified or re-verified within the period fixed and stamped in the prescribed manner by an inspector with a stamp of verification. Use of weighing or measuring instrument not verified and stamped prohibited.

16. No weight or measure or weighing or measuring instrument shall be sold or delivered unless it has been verified or re-verified and stamped in the prescribed manner by an inspector with a stamp of verification. Sale or delivery of weight, measure, weighing or measuring instrument not verified and stamped prohibited.

Phone: M. R. Pattanshetti, Ex. M. L. A. GULEDGUDD. Dist: Bijapur

[1] This section was inserted by Bom. 56 of 1948, s. 5.

[2] This marginal note was substituted for the original *ibid*, s. 6.

Empowering municipalities and district local boards to stamp weights etc.

17. Government may empower any municipality or district local board authorised under this Act to keep [1][secondary or working standards or both] to stamp weights and measures and weighing or measuring instruments.

Provision of means of verification and stamping.

18. Government shall provide proper and sufficient means for verifying, adjusting and stamping weights and measures and weighing of measuring instruments in the City of Bombay, in all headquarter towns in the districts and at such other places as Government may determine:

Provided that municipalities and district local boards authorised to keep secondary and working standards under this Act shall also provide proper and sufficient means for verifying, adjusting, marking and, if empowered under section 17, for stamping weights and measures and weighing or measuring instruments at such places within their respective limits, as Government may determine.

Appointment of inspectors of weights and measures.

19. (*1*) Government shall appoint a sufficient number of persons with prescribed qualifications as inspectors for keeping the secondary and working standards in safe and proper custody and for the discharge of the other duties of inspectors under this Act and the rules and regulations.

(*2*) A Municipality or a district local board authorised under this Act to keep [2][secondary or working standards or both] shall also appoint a sufficient number of persons with prescribed qualifications as inspectors for the purpose of performing the duties of inspectors specified in sub-section (*1*).

(*3*) The number and scale of pay of inspectors appointed under sub-section (*2*) shall, except in the case of inspectors appointed by the Municipal Corporation of the City of Bombay, be subject to the approval of Government.

Inspectors to enter into recognizance.

20. Every inspector shall forthwith on his appointment enter into a recognizance with Government or the municipality or district local board, as the case may be, in such sum as may be prescribed for the due performance of the duties of his office, for the due payment, at the time and in the manner required by the authority appointing him, of all moneys received by him under this Act and for the safety of the secondary and working standards and the stamps and appliances for verification committed to his charge and for their due surrender immediately on ceasing to hold office.

Requiring persons, dealers, etc., to keep books, accounts and records.

[3][**20A.** (*1*) Every person using weights or measures or weighing or measuring instruments for trade shall maintain such records, and

(*2*) every dealer, repairer or manufacturer in any weights or measures or weighing or measuring instruments shall maintain such books, accounts and records,

relating to weights or measures or weighing or measuring instruments and in such manner as may be prescribed and shall produce them for inspection in such manner as may be prescribed.]

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[1] The words "secondary or working standards or both" were substituted for the words "secondary and working standards" by Bom. 33 of 1935, s. 4.

[2] The words "secondary or working standards or both" were substituted for the words "secondary and working standards", *ibid*, s. 5.

[3] This section was inserted by Bom. 56 of 1948, s. 7.

21. (*1*) Every inspector shall, for the purposes of the verification of weights and measures and weighing or measuring instruments, attend at such time and place within his jurisdiction as may be appointed in this behalf by the authority appointing him. Verification and stamping by inspectors.

(*2*) He shall verify every weight or measure or weighing or measuring instrument which is brought to him for the purpose of verification or re-verification. If he finds such weight or measure or weighing or measuring instrument correct, he shall, if he is an inspector appointed by Government or by a municipality or district local board, empowered under section 17, stamp the same with a stamp of verification in the prescribed manner. If such inspector is one appointed by a municipality or district local board, not empowered to stamp under section 17, he shall, after such verification, refer the matter to the nearest inspector appointed by Government for such action as he deems fit.

(*3*) It shall be competent to Government to empower an officer to inspect the work of stamping done by an inspector appointed by a municipality or district local board within the area under his charge.

22. (*1*) Every inspector authorised in writing in this behalf by the authority appointing him may, at all reasonable times, inspect all weights and measures and weighing or measuring instruments, within the area under his charge, which are used or are in the possession of any person or are on any premises for use for trade and may verify every such weight or measure or weighing or measuring instrument with a secondary or working standard or a weighing or measuring instrument prescribed for this purpose. Power to inspect weights, etc. and to enter shops, etc., for that purpose.

[1][(*1A*) Such Inspector may, at all reasonable times, require any trader or any employee or agent of a trader to produce before him for inspection all weights, measures and weighing or measuring instruments which are in his possession and are kept on any premises used for trade, whether or not such weights, measures or instruments are used, or are in his possession for use, for trade.]

(*2*) Such inspector may seize and detain any weight or measure or weighing or measuring instrument regarding which an offence under this Act appears to have been committed or which appears to have been or which may be used for the commission of such offence.

(*3*) For the purpose of such inspection, the inspector may at all reasonable times enter into any place where weights and measures and weighing or measuring instruments are used or kept for purpose of trade and inspect such weights and measures and weighing or measuring instruments.

23. An inspector shall not, during the time he holds office, derive any profit from or be employed in the making, adjusting, or selling of weights or measures or weighing or measuring instruments: Inspector not to be maker, seller or adjustor of weights and measures or weighing or measuring instruments.

Provided that in any area in which it appears to Government desirable that an inspector should be allowed to adjust weights or measures or weighing or measuring instruments, Government may, if it thinks fit, authorise such inspector to adjust weights, measures or such instruments accordingly.

24. Every inspector appointed by a municipality or district local board under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Inspectors to be public servants.

XLV of 1860.

[1] This sub-section was inserted by Bom. 15 of 1947, s. 3.

Government or municipality or district local board may determine difference.

25. (*1*) If any difference arises between an inspector and any person interested as to the meaning or construction of any rule or regulation or as to the method of verifying, adjusting or stamping any weight or measure or weighing or measuring instrument, such difference may, at the request of the party interested or by the inspector of his own accord be referred to such officer as Government may direct or to the municipality or district local board, as the case may be, and the decision of such officer or the municipality or district local board shall subject to the provisions of sub-section (*2*) be final.

(*2*) An appeal shall lie within the time prescribed from the decision under sub-section (*1*) to Government or such officer as Government may appoint in this behalf. The decision of Government or such officer under this sub-section shall be final.

Expenses of municipality and district local board.

26. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or district local board under and for the purposes of this Act and the rules and regulations may be paid out of the municipal or local fund.

Levy of fees.

27. (*1*) Government and with the previous sanction of Government a municipality or district local board [1][directed under sub-section (*2*) of section 8 or section 9 to keep secondary or working standards], shall charge such fees for the verification, re-verification, marking, adjustment and stamping of weights or measures or weighing or measuring instruments as may be prescribed.

(*2*) There shall be credited annually to Government—

[2][the balance of the fees levied by the municipalities and district local boards under this section after deducting—]

(*a*) in such number of equal annual instalments as may be directed by Government, the expenses incurred by the said municipalities or local boards as the case may be in providing and maintaining secondary standards, working standards or weighing or measuring instruments under section 11, and

(*b*) all necessary recurring expenditure of the said municipalities or loca boards as the case may be under this Act.

(*3*) The municipalities and local boards [3][leving fees under this section] shall forward to Government a quarterly statement of expenditure incurred by them under this Act.

wer of nicipali- s and dis- ct local rds to ubine for purposes he Act.

28. (*1*) With the sanction of Government any two or more municipalities or district local boards may combine, as regards either the whole or any part of the area within their jurisdiction for all or any of the purposes of this Act upon such terms and in such manner as may be mutually agreed upon.

(*2*) An inspector appointed in pursuance of an agreement for such combination shall, subject to the terms of his appointment, have the same authority, jurisdiction and duties, as if he had been appointed by each of the municipalities and district local boards which is a party to such agreement.

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[1] These words, figures and brackets which had effect from 1st December 1932 were substituted for the words and figures "authorised under section 17 or 18" by Bom. 22 of 1936, s. 2.

[2] These words were substituted for the original words, figures and brackets by Bom. 5 of 1937, s. 2 (*1*).

[3] These words were substituted for the words, figures and brackets "mentioned in clause (*ii*) of sub-section (*2*)", *ibid.*, s. 2.

29. A weight or measure duly stamped by an inspector under this Act shall be a legal weight or measure in all places in which this part has come into force, unless false or defective, and shall not be liable to be re-stamped because used in any place other than that in which it was originally stamped.

Validity of weights and measures, etc., duly stamped.

30. A weight or measure or weighing or measuring instrument duly stamped under the provisions of this Act or the rules or regulations shall be deemed to be correct until its inaccuracy is proved, if it is produced in any court by any public servant having charge thereof under the direction of Government or the municipality or district local board, as the case may be, or by any person acting under the general or special authority of such public servant.

Stamped weights, etc., to be *prima facie* deemed correction any court.

PART IV.

PENALTIES.

31. Whoever fraudulently uses any weight or measure or weighing or measuring instrument, shall, on conviction, be punished with imprisonment of either description which may extend to three months or with fine extending up to rupees five hundred or with both.

Penalty for fraudulent use of weight, measure, etc.

[1][**31A.** Whoever uses any weight or measure or weighing or measuring instrument in contravention of any notification issued under section 11A shall, on conviction, be punished with imprisonment of either description which may extend to three months or with fine which may extend to rupees five hundred or with both.]

Penalty for use of weight or measure in contravention of section 11A.

32. Whoever wilfully or knowingly makes, sells or disposes of or causes to be made, sold or disposed of any weight or measure or weighing or measuring instrument which is false or defective shall, on conviction, be punished with rigorous imprisonment for a period which may extend to three months or with fine which may extend to rupees five hundred or with both.

Penalty for making, selling, disposing of false or defective weight, measure, etc.

33. Whoever sells [2][or causes to be sold] any article by any denomination of weight or measure other than one of the standard weights or measures shall, on conviction, be punishable with fine which may extend to rupees five hundred.

Penalty for sale by weight or measure other than standard weight or measure.

34. Whoever uses or has in his possession for use for trade any weight or measure or weighing or measuring instrument which is not authorised, verified [3][or re-verified] or stamped under or in accordance with the provisions of this Act and the rules and regulations shall, on conviction, be punishable with fine which may extend to rupees five hundred, and any trade had or made by such weight or measure or weighing or measuring instrument shall be void.

Penalty for use and possession of weight, measure, etc., not authorised.

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[1] This section was inserted by Bom. 56 of 1948, s. 8.

[2] These words were inserted, *ibid.*, s. 9.

[3] These words were inserted by Bom. 1 of 1939, s. 2 (*i*).

[1][*Explanation.*—When any such weight or measure or weighing or measuring instrument is found in the possession of any trader or of any employee or agent of such trader, such trader shall be presumed, until the contrary is proved, to have had it in his possession for use for trade.]

Penalty for giving short weight or measure.

[2][**35.** Whoever in selling any article by weight or measure delivers or causes to be delivered to the purchaser—

(*i*) in cases to which an amount of error prescribed under section 46A applies, short weight or measure, exceeding in shortage the amount of error so prescribed, or

(*ii*) in other cases, short weight or measure,

shall, on conviction, be punishable with fine which may extend to rupees three hundred.]

36. [*Penalty for possessing for use weight, etc., not verified or stamped.*] *Repealed by Bom. I of 1939, section 3.*

Penalty for sale or delivery of weight or measure, etc., not verified or stamped.

37. Whoever sells or delivers [3][or causes to be sold or delivered] any weight or measure or weighing or measuring instrument not verified or re-verified and stamped under this Act shall, on conviction, be punishable with fine which may extend to rupees one thousand.

Penalty for forging, etc., of weights, measures, etc.

38. (*1*) Whoever forges or counterfeits any stamp used under this Act for the stamping of any weight or measure or weighing or measuring instrument [4][or possesses any such counterfeit stamp] or removes a stamp from any weight or measure or weighing or measuring instrument and inserts the same into another weight or measure or weighing or measuring instrument or wilfully increases or diminishes a weight or measure so stamped shall, on conviction, be punished with rigorous imprisonment for a period which may extend to six months or with fine or with both.

(*2*) Whoever knowingly uses, sells, utters, disposes of or exposes for sale any weight or measure or weighing or measuring instrument with such forged or counterfeit stamp thereon, or a weight or measure so increased or diminished shall, on conviction, be punished with rigorous imprisonment for a period which may extend to six months or with fine or with both.

Penalty for neglect or refusal to produce weight for inspection.

39. Whoever neglects or refuses to produce for inspection all weights or measures or weighing or measuring instruments in his possession or on his premises or refuses to permit an inspector authorized to examine the same or any of them or obstructs the entry of the inspector under section 22 or otherwise obstructs or hinders him in the performance of his duties shall, on conviction, be punishable with fine which may extend to rupees five hundred.

Penalty for demanding or receiving articles in excess of or less than quantity fixed by weight or measure.

[5][**39A.** Whoever in contravention of the provisions of section 12A, demands receives or causes to be demanded or received any quantity of article sold or bought shall, on conviction, be punished with fine which may extend to rupees three hundred.]

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[1] The Explanation was added by Bom. 1 of 1939, s. 2 (*ii*).
[2] Section 35 was substituted for the original by Bom. 15 of 1947, s. 4.
[3] These words were inserted by Bom. 56 of 1948, s. 10.
[4] These words were inserted, *ibid.*, s. 11.
[5] This section was inserted, *ibid.*, s. 12.

40. If an inspector knowingly stamps a weight or measure or weighing or measuring instrument in contravention of the provisions of this Act or of the rules or regulations or is guilty of a breach of any duty imposed on him by this Act or by the rules or regulations, he shall, on conviction, be punished with imprisonment of either description for a period which may extend to one year or with fine or with both. Penalty for breach of duty by inspector.

PART V.

RULES AND REGULATIONS.

41. (*1*) Government may make rules [1]for carrying into effect the purposes of this Act. Power of Government to make rules.

(*2*) Without prejudice to the generality of the foregoing provision, such rules may prescribe—

(*a*) the composition, weight, length, form and specifications of secondary standards and the manner in which they shall be made;

(*b*) the places at which, the custody and manner in which secondary standards shall be kept by municipalities and district local boards;

(*c*) the procedure for the verification, re-verification, adjustment or renewal of primary and secondary standards and marking of secondary standards;

(*d*) the composition, weight, length, form and specifications and use of working standards, the authority by whom and the manner in which such standards shall be provided, the agency by whom such standards shall be made, the person by whom and the manner in which such standards shall be stamped, and the places at which and the custody and manner in which such standards shall be kept;

(*e*) the procedure for the verification or re-verification and marking of working standards and the person by whom and the place where they shall be verified or re-verified;

(*f*) the number of weighing and measuring instruments to be kept and necessary particulars regarding the same;

(*g*) the authority by whom certified scales shall be provided for the purposes of this Act and the rules and regulations and the manner in which they shall be verified or re-verified;

(*h*) the composition, weight, length, form, specifications and manufacture of weights and measures in use in any area;

(*i*) the inspection, verification, re-verification, adjustment and stamping of weights and measures and weighing or measuring instruments in use in any area, including the prohibition of stamping in cases where the nature, denomination, material or mode of construction of the weight or measure or weighing or measuring instrument appears likely to facilitate the commission of fraud and the period within which such weights and measures and weighing or measuring instruments shall be verified or re-verified;

[2][(*ii*) the books, accounts and records relating to weights or measures or weighing or measuring instruments to be maintained and the manner in which they shall be maintained or produced;]

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[1] For Rules under this section, *see* G. N., G. D., No. 9492, dated 5th June 1934, published in the *B. G. G.*, Pt. I of 1934, pp. 1323-56. *See* also Bombay Local Rules and Orders, Vol. IV.

[2] This clause was inserted by Bom. 56 of 1948, s. 13.

(*j*) the circumstances and conditions under which and the manner in which stamps may be obliterated or defaced;

(*k*) the tests to be applied for the purpose of ascertaining the accuracy and efficiency of weights and measurs and weighing or measuring instruments;

(*l*) the limits of error to be allowed on verification and to be tolerated on inspection either generally or as regards any trade;

(*m*) the amount of error to be tolerated in weights and measures and weighing or measuring instruments used or intended to be used for trade;

[1][(*mm*) the amount of error to be tolerated in selling articles by weight or measure generally or as regards any trade or class of trades;]

[2][(*mmm*) the method of using weight or measure or weighing or measuring instrument generally or for a specified class of trade;]

(*n*) the fees to be charged for the verification, re-verification, adjustment and stamping of weights and measures and weighing or measuring instruments and the collection and levy of the same;

(*o*) the seizure, detention and destruction of weights and measures and weighing or measuring instruments which are not authorized by this Act and in regard to which no regulations have been made under section 42;

(*p*) the matters other than those specified in section 42 in respect of which regulations may be made by municipalities or district local boards;

(*q*) the qualifications, functions and duties generally of inspectors under this Act and the rules and regulations;

(*r*) any other matters for which no provision or insufficient provision is made in this Act and for which provision is, in the opinion of Government, necessary.

(*3*) The powers to make rules under this section shall be subject to the condition of previous publication in the [3][*Official Gazette*].

[4][Any rules made by the Provincial Government] under this section shall be laid [5][before each Chamber of the Provincial Legislature] for not less than one month previous to the next session thereof and shall be liable to be rescinded or modified by a resolution [6][in which both Chambers concur]. If any rule is modified, the [7][Provincial Government] may accept the modification and republish the rule accordingly, or may rescind the rule.

[8][(*4*) The rules may provide that any person committing a breach of the same shall, on conviction, be punishable with fine which may extend to rupees one hundred].

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[1] Clause (*mm*) was inserted by Bom. 22 of 1936, s. 4.

[2] This clause was inserted by Bom. 56 of 1948, s. 13.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] The words "Any rules made by the Provincial Government" were substituted for the words "The rules made", *ibid.*

[5] These words were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[6] These words were substituted for the words "of the said Council", *ibid.*

[7] The words "Provincial Government" were substituted for the words "Governor in Council", *ibid.*

[8] The sub-section was inserted by Bom. 56 of 1948, s. 13.

42. (*1*) Every municipality and district local board, authorized to keep secondary or working standards under this Act, shall, with the previous sanction of Government, make regulations not inconsistent with this Act and the rules for the area subject to its jurisdiction, providing for— Power of municipality and district local board to make regulations.

(*a*) the verification, adjusting and stamping of weights and measures and weighing or measuring instruments in use within the area subject to its jurisdiction and for the stamping thereof, when such municipality or district local board is empowered under section 17;

(*b*) the seizure, detention and destruction of weights and measures and weighing or measuring instruments which are not authorized by this Act;

(*c*) the inspection of weights and measures and weighing or measuring instruments;

(*d*) the duties generally under this Act of the inspectors appointed by such municipality or district local board; and

(*e*) any other matters in respect of which it is authorized by rules to make regulations.

(*2*) The regulations for the time being in force shall be kept open for public inspection at the municipal and district local board offices at all reasonable times and printed copies thereof in the vernacular language of the area subject to the jurisdiction of the municipality or district local board, and in the case of city and borough municipalities in English as well as in the vernacular shall be kept on sale at cost price.

PART VI.

MISCELLANEOUS.

43. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules or regulations. Protection to persons acting in good faith.

44. No prosecution under this Act shall be instituted except by or with the previous sanction of the Collector or any officer specially empowered by him or by Government in this behalf. Cognizance of offences.

45. Any of the powers and duties conferred and imposed upon Government by this Act may be exercised and performed, subject to such conditions as Government may think fit, by any person whom Government may, by general or special order, empower in this behalf. Delegation of powers by Government.

46. Government may, after previous publication by notification in the [1][*Official Gazette*], and subject to such conditions and restrictions as it may think fit to impose, exempt any class of persons, any commodity, trade, [2]*any class of trades [3][or any class of weights or measures or of weighing or measuring instruments used or intended to be used for any purpose other than trade] specified in the notification from all or any of the provisions of this Act. Power to exempt specified persons, articles or trades from provisions of the Act.

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[1] The words "*Official Gazette*" were substituted for the wrds "*Bombay Government Gazette* by." the Adaptation of Indian Laws Order in Council.

[2] The word "or" was omitted by Bom. 33 of 1935, s. 4 (*i*).

[3] These words were inserted, *ibid*, s. 4 (*ii*).

'ower to rescribe the mount of rror to be olerated in elling articles y weight or ieasure.

[1][46A. Government may prescribe the amount of error to be tolerated in selling articles by weight or measure generally or as regards any trade or class of trades.]

Repeal and mendments.

47. On the coming into force of this Part in any area—

(*a*) the enactments specified in Part I of the Second Schedule shall be deemed to have been amended to the extent and in the manner specified in the third column thereof;

(*b*) the enactments specified in Part II of the said schedule shall be deemed to have been repealed, so far as they apply to the presidency of Bombay, to the extent specified in the third column thereof:

Provided that—

(*i*) the said repeal shall not affect the validity or invalidity of anything already done under the enactments repealed by this Act;

(*ii*) all appointments made, notifications and notices issued, rules, by-laws and orders made, contracts entered into and suits and other proceedings instituted under any Act or enactment repealed by this Act shall, so far as they are not inconsistent with the provisions of this Act and the rules and regulations, continue in force and be deemed to have been made, issued, entered into and instituted under this Act.

THE FIRST SCHEDULE.

(*See* section 4.)

Standard Weights and Measures.

Weights—

The Bombay Tola of 180 grains.

The Bombay Seer of 80 tolas.

The Bombay Maund of 40 seers.

The sub-multiples ½, ¼, ⅛, 1/16 and 1/32 and the multiples 2, 4 and 8 of the tola, seer and maund.

The pound avoirdupois equal to 7,000 grains and the sub-multiples ⅛, ¼, ½, 1, 2, 4 and 8 ounces, the multiples, 1, 2, 4, 7, 14, 28 lbs. (a quarter), 56 lbs., 112 lbs. (1 cwt.) and 2,240 lbs. (1 ton).

The grain is that unit of weight in vacuo which when multiplied by 1799·84585 is the weight of the iridio-platinum cylinder in the custody of the Mint Master, Bombay, the value of which is certified by the Standard Department of the British Board of Trade as 1799·84585 grains in vacuo.

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[1] Section 46A was inserted by Bom. 22 of 1936, s. 5.

Explanation 1.—The equivalent value of the abovementioned iridio-platinum cylinder when weighed in Standard Indian Air against Brass Weights having a specific gravity of 8·143 is 1800·00394 grains, i.e., a brass weight whose value in vacuo is 1800·00394 grains will exactly equilibrate the abovementioned iridio-platinum cylinder in Standard Indian Air.

Explanation 2.—Since the Bombay tola equals 180 grains in vacuo, its absolute value is equivalent to ·10000856 of the absolute value of the abovementioned iridio-platinum cylinder. But in practice, all verifications against the abovementioned iridio-platinum cylinder are carried out by weighments in air, and therefore the value 1800·00394 grains is always used for verifying weights.

Explanation 3.—Standard Indian Air is defined as follows:—
Temperature: 85 deg. Fahr.—29·44 deg. Cent. Pressure: A column of mercury at 0 deg. C. 29·8 inches or 756·919 mm. in height. Carbon diox. gas: 0·0006 of the volume of air. Vapour tension: 0·75 inches = 19·05 mm. Latitude at Calcutta 22° 35′ 6·6″. Height above M. S. L. = 22·6 feet. 1 litre of Standard Indian Air at Calcutta weighs 1·14917 grm.

Dry measures—
The Bombay seer.
The sub-multiples ½, ¼ and ⅛ seer.
The Bombay Chatak = 1/16 seer.
The Adpao = ⅛ seer.
The Adholi = 2 seers.
The Bombay payali of 4 seers.
The Bombay Maund of 16 payalis.
The Bombay Map of 2 maunds.

Liquid measure—
The Bombay seer.
The sub-multiples ½, ¼, ⅛ and 1/16 seer.
The multiples 2, 4 and 8 seers.
The Imperial gallon.
The Pint = ⅛ gallon.

Dry and Liquid measures—Explanations—
Explanation 1.—The unit of capacity called the Bombay seer is equivalent to the volume occupied by 80 tolas of air-free distilled water weighed in Standard Indian Air against brass weights having a specific gravity of 8·143.

Explanation 2.—The unit of capacity called the Imperial gallon contains ten British Standard pounds of water at 62° F. being in volume 277·274 cub. in., which contains each 252·724 grains of water in a vacuum at 62° or 252·458 grains of water weighed with the brass weights in air of 62° with the barometer at 30 in.

Length—
The Yard—
The Inch=1/36th yard, and
The Foot=⅓rd yard.
The Furlong of 220 yards.
The Mile of 1,760 yards.
The yard is that unit of length which is exactly equal to the certified yard kept in the custody of the Mint Master, Bombay.

Area and volume—

The Square Yard, Square Foot and Square Inch.
The Cubic Yard, Cubic Foot and Cubic Inch and sub-multiples of a Cubic Inch.
The anna of $1\frac{1}{6}$ of the guntha.
The Guntha of 121 square yards and the acre of 4,840 square yards for land measurement.
The Square of 100 square feet.
The Brass of 100 cubic feet.

THE SECOND SCHEDULE.

(*See* section 47.)

PART I.

Enactments amended.

No. and year of Act.	Title.	Amendments.
		Acts of the Governor of Bombay in Council.
III of 1901 ...	The Bombay District Municipal Act, 1901.	For section 143 the following section shall be substituted, namely :—
		"143. The president, vice-president, or any councillor or officer authorized by the municipality in this behalf may at all reasonable times enter into any place [1][(other than a place prescribed by rules made under the Bombay Weights and Measures Act, 1932)] where weights or measures or weighing or measuring instruments are used or kept for purposes of trade and inspect such weights or measures or weighing or measuring instruments." Powers of inspection of weights and measures etc.
VI of 1923 ...	The Bombay Local Boards Act 1923.	After section 61A the following section shall be inserted namely :— [*See* section 61B of Bom. 6 of 1923, .]
XVIII of 1925 ...	The Bombay Municipal Boroughs Act, 1925.	For section 177 the following sect on shall be substituted, namely :— [*See* section 177 of Bom. 18 of 1925,]
[2][XVII of 1933 ...	The City of Karachi Municipal Act, 1933.	In section 165 after the word "place" the words, figures and brackets "(other than a place prescribed by Government by rules made under the Bombay Weights and Measures Act, 1932)" shall be inserted.]

[1] These words, figures and brackets were inserted by Bom. 9 of 1935, s. 6 (*1*).
[2] The entry was added by Bom. 9 of 1935, s. 6(*2*).

PART II.

Enactments repealed.

No. and year of Act.	Title.	Extent of repeal.
		Acts of the Governor General in Council.
XXXI of 1871 ...	The [1]Indian Weights and Measures of Capacity Act, 1871.	The whole.
II of 1889 ...	The [1]Measures of Length Act, 1889.	The whole.
		Acts of the Governor of Bombay in Council.
[2]Regulation XII of 1827.	A regulation for the establishment of a system of police throughout the zilas subordinate to Bombay for providing rules for its administration and for defining the duties and powers of all po ice authorities anld servants.	Section 20.
III of 1886 ...	The Bombay General Clauses Act, 1886.	In Schedule B the entry relating to section 20 of Bombay Regulation XII of 1827.
III of 1888 ...	The City of Bombay Municipal Act, 1888.	Sections 418, 419 and 420. Section 461, clause (*o*), sub-clause (*i*). In section 471, the entries relating to section 420, sub-section (*2*), clauses (*a*), (*b*), (*c*) and (*d*) and sub-section (*3*), clauses (*a*) and (*b*).
III of 1901 ...	The Bombay District Municipal Act, 1901.	Clauses (*e*) and (*ee*) of sub-section (*1*) of section 48.
IV of 1904 ...	The Bombay District Municipal (Amendment) Act, 1904.	Section 3.
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XVIII of 1925 ...	The Bombay Municipal Boroughs Act, 1925.	Clauses (*h*) and (*i*) of section 61.

[1] Central Act.
[2] *See* Vol. I of this Code.

THE BOMBAY (DISTRICT) TOBACCO ACT, 1933.

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SCHEDULE.

*BOMBAY ACT No. II OF 1933.[1]

[THE BOMBAY (DISTRICT) TOBACCO ACT, 1933.]

[*27th March 1933.*]

Amended by Bom. 2 of 1935.
,, ,, ,, 26 of 1935.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 6 of 1938.

An Act for the imposition and levy of fees on the sale of Tobacco in the Presidency of Bombay excluding the City of Bombay.

5 & 6 Geo. V, c. 61. WHEREAS it is expedient to impose and levy licence fees on the sale of tobacco in the Presidency of Bombay excluding the City of Bombay; And whereas the previous sanction of the Governor General required by section 80A (*3*) of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Bombay (District) Tobacco Act, 1933.

(*2*) It extends to the whole of the Presidency of Bombay except the City of Bombay and such area as [2][the Provincial Government] may, by notification published in the [3][*Official Gazette*], exclude.

(*3*) It shall come into force from the 1st day of April 1933 [4]* * *.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[5][(*1A*) "Broker" means an agent whose ordinary course of business is to negotiate and make contracts for the sale and purchase of tobacco;]

(*1*) "Collector" includes any officer appointed under section 5 to exercise the powers and perform the duties of a Collector under this Act;

(*2*) "Commissioner" means an officer appointed under section 3 to be a Commissioner for the purposes of this Act;

(*3*) "Grower" means a person who by himself or by members of his household or by his servants, agents or tenants grows tobacco;

(*4*) "Hawker" means a person who goes from place to place or from house to house carrying or exposing for sale tobacco or exposing samples of tobacco to be afterwards delivered;

(*5*) "Holder" means a holder of a licence;

(*6*) "Licence" means a licence for the sale of tobacco granted under section 7;

(*7*) "Magistrate" means a magistrate of the first or second class or a magistrate of the third class specially authorised in this behalf by the District Magistrate;

(*8*) "Prescribed" means prescribed by rules;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Part V, pp. 474-477 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVII.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] The words "and shall remain in force for a period of four years" were deleted by Bom. 6 of 1938, s. 3.

[5] This clause was inserted by Bom. 2 of 1935, s. 3.

* This Act has been suspended by Bom. 11 of 1945, read with Bom. 1 of 1948.

(*9*) "Retail sale" means a sale other than a wholesale sale;

(*10*) "Rule" means a rule made under section 27;

(*11*) "Tobacco" includes bidis, cigarettes and cigars, the leaf, stalks and stem of the tobacco plant and any preparation or mixture of tobacco;

(*12*) "Tobacco Officer" means the Commissioner, a Collector or any other officer or person lawfully appointed or invested with powers under section 5;

(*13*) "Tobacco revenue" means revenue derived or derivable from any fee, fine (other than a fine imposed by a court of law) or confiscation imposed or ordered and all sums accruing to [1][the Provincial Government], under the provisions of this Act; and

(*14*) "Wholesale sale" means a sale of tobacco to traders in that commodity for the purpose of trade.

Appointment and duties of Commissioner.

3. (*1*) [1][The Provincial Government] may, by notification in the [2][*Official Gazette*], appoint for the whole or for any part of the Presidency of Bombay in which this Act shall be in force, an officer to be the Commissioner.

(*2*) The Commissioner shall, subject to the control of [1][the Provincial Government], superintend the administration of the Tobacco Department and the collection of tobacco revenue.

Collectors charged with carrying out the Act.

4. Subject to the control and direction of the Commissioner and the orders of [1][the Provincial Government], the Collectors are charged with the collection of tobacco revenue and with the carrying out of the provisions of this Act.

Appointment of special Collectors and other tobacco officers.

5. (*1*) [1][The Provincial Government] may, by notification in the [2][*Official Gazette*], appoint any person other than the Collector of Land-revenue to exercise, in any district or place, all the powers and perform all the duties conferred and imposed by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of [1][the Provincial Government], as [1][the Provincial Government] may from time to time direct.

(*2*) The Commissioner may, subject to the general or special orders of [1][the Provincial Government], [3][assign to any Tobacco Officer] such powers and duties under this Act, as he may deem fit.

(*3*) [1][The Provincial Government], or subject to such orders as aforesaid, the Commissioner may invest any officer or person with such powers and impose upon him such duties under this Act, as [1][the Provincial Government] or the Commissioner, as the case may be, may deem fit and any such officer shall thereupon exercise the said powers and discharge the said duties in addition to the powers and duties incident to his principal office.

Prohibition of sale of tobacco without licence.

6. No person shall sell or expose for sale any tobacco [4][or carry on business as a broker] except under and in accordance with the terms and conditions of a licence granted under section 7:

Provided that a grower of tobacco may, without licence, sell tobacco (other than bidis, cigarettes, cigars and any preparation or mixture of tobacco) grown by him:

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] These words were substituted for the words "appoint any person to be a Tobacco Officer and assign to him", *ibid.*

[4] These words were inserted by Bom. 2 of 1935, s. 4.

[1][Provided further that subject to the prescribed conditions [2][the Provincial Government] or the prescribed authority may exempt any person from taking out such a licence.]

Explanation.—The supply of tobacco by clubs to their members on payment of any price, fee or subscription is a sale within the meaning of this section.

Grant of licences.

7. [3](*1*) Every licence for the sale of tobacco whether wholesale, retail or by a hawker [4][or for carrying on business as a broker] shall be granted annually or for any less period by the Collector in the manner prescribed by [2][the Provincial Government] on payment of fees [5] * * specified, in the schedule hereto annexed.

(*2*) Such licences shall be in such form and subject to such conditions and restrictions as [2][the Provincial Government] may prescribe.

Levy of sale's tax.

[6][**7A.** Notwithstanding anything contained in section 7, the Provincial Government may in addition to the licence fee leviable under the said section, levy also a tax at such rates, subject to such conditions and in such areas as may be prescribed, on any sale of tobacco on *ad valorem* basis not exceeding 50 per cent. of the price of such sale.]

Suspension or revocation of licences.

8. (*1*) Subject to such conditions as may be prescribed by [2][the Provincial Government), the authority granting any licence may suspend or cancel the licence,

(*a*) if any fee payable under the licence is not duly paid ; or

(*b*) if there be any breach of any of the conditions of the licence or of any other licence previously granted to the holder either by the holder or his servant or any one acting on behalf of the holder with his express or implied permission.

(*2*) The holder shall not be entitled to any compensation for the cancellation or suspension of a licence under sub-section (*1*) nor to refund of any fees paid or deposit made in respect thereof.

(*3*) Where a licence is cancelled or suspended under sub-section (*1*) the balance of the fee payable under the licence may be recovered from the holder or his surety in the same manner as tobacco revenue.

Issue of warrants.

9. (*1*) The Commissioner or Collector or any other Tobacco Officer duly empowered in this behalf or a Magistrate may issue a warrant,—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence punishable under this Act, or

(*b*) for the search, whether by day or by night, of any building, vessel or place in which he has reason to believe that any tobacco is sold or is exposed for sale contrary to the provisions of this Act.

(*2*) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by a Police Officer or by a Tobacco Officer duly empowered in this behalf or if the officer issuing the warrant deems fit by any other person.

V of 1898.

Power of entry, search, seizure and detention.

10. The Collector or any other Tobacco Officer duly empowered in this behalf may—

(*a*) enter and search, at any time, by day or by night, any building, vessel, vehicle or any place in which he has reason to believe that any tobacco liable to confiscation under this Act is kept or concealed ;

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[1] This proviso was added by Bom. 26 of 1935, s. 2.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] Nothing in the Bombay (District) Tobacco (Amendment) Act, 1935, shall be deemed in any way to affect the validity, conditions or restrictions of a licence granted before the 31st day of March 1935, or any rights or liabilities acquired or incurred thereunder (*see* section 11 of Bom. 2 of 1935).

[4] These words were inserted by Bom. 2 of 1935, s. 5 (*1*).

[5] The words "subject to the maxima" were deleted, *ibid*, s. 5 (*2*).

[6] This section was inserted by Bom. 6 of 1938, s. 4.

(*b*) seize any tobacco or any other article which he has reason to believe is liable to confiscation under this Act; and

(*c*) detain and arrest any person whom he has reason to believe to be guilty of any offence punishable under this Act.

Searches how made.

11. All searches made under section 10 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Procedure for arrest without warrant.

12. The provisions of section 61 of the Code of Criminal Procedure, 1898, shall apply to all arrests without warrant made under section 10. V of 1898.

Officers bound to assist.

13. All village officers, all village servants, useful to [1][the Provincial Government], and all officers of the departments of Excise, Police and Revenue shall be bound—

(*a*) to give immediate information to a Tobacco Officer of the commission of any offence, or of the intention or preparation to commit any offence punishable under this Act which may come to their knowledge;

(*b*) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed; and

(*c*) to assist any Tobacco Officer in carrying out the provisions of this Act.

Tobacco Officer to have powers of investigation.

14. (*1*) Every Tobacco Officer not below such rank as [1][the Provincial Government] may determine, shall within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(*2*) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence: V of 1898.

Provided that—

(*a*) If such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report;

(*b*) the powers of a Tobacco Officer empowered under this section shall be subject to such further modifications or restrictions as [1][the Provincial Government] may determine.

Offences under the Act to be bailable.

15. (*1*) All offences punishable under this Act shall be bailable.

(*2*) Any Tobacco Officer empowered under section 14 to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence punishable under this Act. V of 1898.

Articles seized.

16. When anything has been seized by a Tobacco Officer exercising powers under section 14 such officer, after such inquiry as may be necessary—

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken;

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to his superior officer, if any;

(*c*) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to his superior officer, if any, accordingly.

17. Whoever in contravention of this Act or of any rule or order made under this Act or of any terms or conditions of a licence sells or exposes for sale tobacco [1][or carries on business as a broker] shall be punishable on conviction with a fine not exceeding two hundred rupees. Penalty for contravention of this Act.

18. Any Tobacco Officer or other person who, without reasonable ground of suspicion, enters or searches, or causes to be searched, any building, vessel or place, or vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act, Penalty for vexatious search or arrest.

or vexatiously and unnecessarily detains, searches or arrests any person, shall, on conviction, be punishable for every such offence, with fine which may extend to two hundred rupees.

19. Any Tobacco Officer or other person who vexatiously and unnecessarily delays forwarding to a Magistrate any person arrested under this Act and not released by him on bail shall on conviction be punishable with fine which may extend to fifty rupees. Penalty for vexatious delay in forwarding an arrested person to a Magistrate.

20. Whenever an offence under this Act has been committed, all tobacco in respect of which the offence has been committed and every box, receptacle, package or covering in which such tobacco is contained shall be liable to confiscation. Confiscation.

21. (*1*) When in any case tried by a Magistrate the Magistrate decides that anything is liable to confiscation under the foregoing section, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner option to pay such fine as the Magistrate deems fit in lieu of confiscation. Procedure in confiscation.

(*2*) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the case shall be enquired into and determined by the Collector, who may order confiscation:

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing intended to be confiscated, or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

22. (*1*) The Commissioner or any Collector or any other Tobacco Officer specially empowered by [2][the Provincial Government] in this behalf may accept from any person whose licence is liable to be cancelled or suspended under section 8 or who is reasonably suspected of having committed an offence under section 17 a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be, and in all Compounding offences

[1] These words were inserted by Bom. 2 of 1935, s. 6.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

cases whatsoever in which any property has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by such officer.

(*2*) On the payment by such person of such money or value or both, as the case may be, to such officer, such person if in custody shall be set at liberty and the property seized shall be released and if criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

Cognizance of offences.

23. (*1*) No Magistrate shall take cognizance of any offence punishable under this Act,—

(*i*) except upon the complaint or report of the Commissioner, or a Collector or any other Tobacco Officer empowered in this behalf or of an Excise or Police Officer, or

(*ii*) except upon his own knowledge or suspicion.

(*2*) Except with the sanction of [1][the Provincial Government] no Magistrate shall take cognizance of any offence punishable under this Act, unless the prosecution is instituted within six months from the date on which the offence is alleged to have been committed.

Protection of persons acting in good faith and limitation of suits and prosecutions.

24. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules.

(*2*) No suit shall be instituted against [2][the Crown] and no prosecution or suit shall lie against any Tobacco Officer in respect of anything done or alleged to have been done, in pursuance of this Act, unless the suit or prosecution has been instituted within four months from the date of the act complained of.

Recovery of tobacco revenue, etc.

25. The following moneys, namely :—

(*a*) all tobacco revenue,

(*b*) any loss that may accrue in consequence of the suspension or cancellation of a licence,

may be recovered from the person primarily liable to pay the same or from his surety (if any) as arrears of land revenue.

Appeals and revision.

26. (*1*) Any person aggrieved by any order under this Act may appeal—

(*a*) to the Collector, if such order was passed by a Tobacco Officer other than the Collector or Commissioner,

(*b*) to the Commissioner, if such order was passed by the Collector, and

(*c*) to [1][the Provincial Government], if such order was passed by the Commissioner except on an appeal under clause (*b*).

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (*3*), be final.

(*3*) [1][The Provincial Government], [3][the Commissioner or the Collector] may call for and examine the record of any order or the proceedings of any [4][subordinate] Tobacco Officer for the purpose of satisfying themselves [5][or himself, as the case

[1] The words "the Provincial Government" were substituted for the word "Government" by Adaptation of Indian Laws Order in Council.

[2] The words "the Crown" were substituted for the word "Government", *ibid.*

[3] These words were inserted by Bom. 2 of 1935, s. 7 (*1*).

[4] This word was inserted, *ibid.*, s. 7 (*2*).

[5] These words were inserted, *ibid.*, s. 7 (*3*).

may be], as to the legality and propriety of any order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to [1][the Provincial Government], [2][the Commissioner or the Collector, as the case may be,] that any order or proceedings so called for should be modified, annulled or reversed, they [3][or he] may pass such order as they [3][or he] may deem fit.

Power of the Provincial Government to make rules.

27. (*1*) [1][The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) under section 5, regulating the powers and duties to be exercised and performed by Tobacco Officers and the assignment of such powers and duties ;

[4][(*aa*) under section 6, prescribing the conditions subject to which, and the authority by which, exemptions may be granted ;]

(*b*) under section 7, prescribing the manner in which the fees are to be charged, the form of and the conditions and restrictions on which, licences shall be granted ;

(*c*) under section 8, prescribing the conditions on which licences may be suspended or cancelled ;

[5][(*d*) under section 7A prescribing the rates at which, the conditions subject to which and the areas in which a tax on sales of tobacco shall be levied ;

(*e*) for the purposes of the Schedule hereto annexed, prescribing the varieties of tobacco which shall be classed as Superior and Inferior tobacco.]

(*3*) Rules made under this section shall be subject to previous publication.

(*4*) Rules made under this section shall be laid [6][before each of the Chambers of the Provincial Legislature] at the session [7][thereof] next following and shall be liable to be modified or rescinded by a resolution [8][in which both Chambers concur] and such rule shall, after notification in the [9][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [1][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [1][the Provincial Government] may, by notification in the [9][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Delegation of powers.

28. The powers conferred on the Commissioner under this Act may, [10][with the exception of the powers under sub-section (*3*) of section 26] subject to the general or special orders of [1][the Provincial Government], be delegated by the Commissioner in whole or in part, to the Collectors or to any subordinate officer.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 2 of 1935, s. 7 (*4*).

[3] The words "or he" were inserted, *ibid.*, s. 7 (*5*).

[4] Clause (*aa*) was inserted by Bom. 26 of 1935, s. 3.

[5] These clauses were added by Bom. 6 of 1938, s. 5.

[6] These words were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[7] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[8] These words were substituted for the words "of the said Council", *ibid.*

[9] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" *ibid.*

[10] These words, figures and brackets were inserted by Bom. 2 of 1935, s. 9.

[1][SCHEDULE.

(Section 7.)

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	Rs.
Wholesale—	
Maximum rate	50
Retail or Hawker—	
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Superior tobacco	50
Inferior tobacco	25
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[1] This Schedule was substituted for the original by Bom. 6 of 1938, s. 6.

BOMBAY ACT No. V OF 1933.[1]

[THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1933.]

[*17th May 1933.*]

An Act further to amend the Presidency Small Cause Courts Act, 1882, in its application to the Presidency-town of Bombay.

WHEREAS it is expedient further to amend the [2]Presidency Small Cause Courts Act, 1882, in its application to the Presidency-town of Bombay; It is hereby enacted as follows :— XV of 1882.

1. This Act may be called the Presidency Small Cause Courts (Bombay Amendment) Act, 1933. Short title.

2. In the footnote to part E of the third schedule to the [2]Presidency Small Cause Courts Act, 1882, for the words "four annas per day" the words "such fee not exceeding twelve annas per day as may be fixed by the Registrar of the Small Cause Court" shall be substituted. Amendment of the third schedule to Act XV of 1882. XV of 1882.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, p. 484; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVII.

[2] Central Acts.

THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.

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SCHEDULE.

BOMBAY ACT No. VI OF 1933.[1]

[THE BOMBAY VILLAGE PANCHAYATS ACT, 1933.]

[*12th June 1933.*]

Amended by Bom. 34 of 1935.
" " " 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 18 of 1939.
" " " 2 of 1945*.
" " " 24 of 1946.
" " " 60 of 1947.
" " " 4 of 1949.

An Act to amend and consolidate the law relating to the constitution of Village Panchayats.

WHEREAS it is expedient to amend and consolidate the law relating to the constitution of village panchayats, with a view to fostering their growth and of increasing their utility in the further development of local self-government in rural areas and in the administration of civil and criminal justice; and whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act of the Governor required under section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

CHAPTER I.

PRELIMINARY.

1. This Act may be called the Bombay Village Panchayats Act, 1933. Short title.

2. It extends to the whole of the Presidency of Bombay, except the City of Bombay. Extent.

3. In this Act, unless there is anything repugnant in the subject or context— Definitions.

[2](*1*) "backward tribe" means a tribe specified in Part II of the Thirteenth Schedule to the Government of India (Provincial Legislative Assemblies) Order, 1936];

[3][(*1A*)] "by-laws" means by-laws made by the district local board under section 109;

(*2*) "case" means, with reference to any judicial proceedings, a criminal proceeding in respect of any offence triable by a [4][nyaya panchayat];

(*3*) "chairman" means the chairman of a [4][nyaya panchayat] appointed under [5][section 37A];

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1932, Pt. V, pp. 200-211, for Report of the Select Committee, *see ibid.*, 1933, Pt. V, pp. 1-14 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1932, Vol. XXXV, 1933, Vol. XXXVII.

[2] Clause (*1*) was inserted by Bom. 18 of 1939, sec. 2 (*i*).

[3] This clause was renumbered as clause (*1A*), *ibid.*, sec. 2 (*ii*).

[4] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[5] The word, figures and letter "section 37A" were substituted for the words, brackets and figures "sub-section (*4*) of section 37" by Bom. 18 of 1939, section 2 (*iii*).

* This Act was re-enacted with modifications by Bom. 60 of 1947, s. 2.

(*4*) "district local board", used with reference to any local area, means a district local board established under the Bombay Local Boards Act, 1923, for the district in which such local area is situated; Bom. VI of 1923.

[1][(*5*) "harijan" means a person belonging to any of the scheduled castes as defined in the Government of India (Scheduled Castes) Order, 1936];

(*6*) "offence" means any act or omission made punishable by any law for the time being in force;

(*7*) "panchayat" means a panchayat established under this Act;

(*8*) "prescribed" means prescribed by rules;

(*9*) "revenue village" means any local area which is recognised as a village in the revenue accounts;

(*10*) "rules" means rules made by [2][the Provincial Government] under section 108;

(*11*) "sarpanch" means a sarpanch elected under section 14;

(*12*) "school-board" means a school-board constituted under section 3 of the Bombay Primary Education Act, 1923; Bom. IV of 1923.

(*13*) "suit" means a civil suit triable by a [3][nyaya panchayat] under this Act;

(*14*) "tax" means a tax, cess, rate, or other impost leviable under this Act;

(*15*) the expression "the term of a panchayat" means the period for which the elected members thereof shall hold office under section 11;

(*16*) "village" means any local area declared to be a village under section 4;

(*17*) "[3][nyaya panchayat]" means a [3][nyaya panchayat] constituted under [4]* * * section 37 for the purpose of the trial of suits and cases.

CHAPTER II.

ESTABLISHMENT AND CONSTITUTION OF PANCHAYATS.

Declaration of village.

[5][**4.** (*1*) Whenever the Provincial Government after making such inquiry as may be prescribed is satisfied that any local area comprising a revenue village or a group of revenue villages or hamlets forming part of a revenue village has a population of not less than 2,000, it shall, by notification in *Official Gazette*, declare such local area to be a village:

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that any local area having a population of less than 2,000 shall be declared a village under this section.

(*2*) The Provincial Government may after consultation with the district local board by like notification at any time—

(*a*) include within any village or exclude from any village any local area or otherwise alter the limits of any village, or

(*b*) declare that any local area shall cease to be a village.]

Establishment of panchayats.

5. In every village declared to be such under section 4, there shall be a panchayat.

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[1] Clause (*5*) was substituted for the original by Bom. 18 of 1939, sec. 2 (*iv*).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[4] The words, brackets and figure "sub-section (*1*) of" were deleted by Bom. 18 of 1939, sec. 2 (*v*).

[5] Section 4 was substituted for the original by Bom. 18 of 1939, s. 3.

[1][6. (*1*) A panchayat shall consist of [2]* * * * such number of elected members, not being less than seven or more than [3][fifteen] in number, as the Collector after consultation with the district local board may determine. Constitution of panchayats.

In any such panchayat such number of seats shall be reserved for the representatives of women, Muhammadans, Harijans or backward tribes as may be prescribed by the Provincial Government under clause (*b*) of sub-section (*1*) of section 108 :

Provided that no such seat shall be reserved for the representatives of Muhammadans, Harijans or backward tribes in any panchayat unless the Provincial Government is of the opinion that the reservation of such seats is necessary having regard to the population of such community, class or tribe in the village.

[4]* * * * *

(*2*) Where the Collector after consultation with the district local board determines that the number of elected members of a panchayat shall exceed seven, failure to elect more than seven such members shall not affect the constitution of a panchayat.

(*3*) If for any reason the election does not result in the return of the required number of qualified persons willing to take office, [5][the Standing Committee of the district local board] shall, within four weeks from the date on which the names of elected members are published [6][in the prescribed manner by the Collector], appoint the required number of persons, being persons who would have been qualified to be elected. If the [5][the Standing Committee of the district local board] fails to make all or any of such appointments, within the time specified, the Collector shall make such appointments ; and the persons so appointed shall be deemed to have been duly elected under sub-section (*1*).]

7. (*1*) The election of [7]* members to a panchayat shall be held on such date as the Collector may appoint in this behalf. Election.

(*2*) All adult persons who ordinarily reside in the village and all adult persons who own in the village a house assessed to house tax or land assessed to cess under section 93 of the Bombay Local Boards Act, 1923, shall be entitled to vote at the election. Bom. VI of 1923.

Such election shall be conducted in the prescribed manner. [8]* * *

(*3*) The Collector shall, after such enquiry as he considers necessary, decide in any case of dispute or doubt, who is qualified to vote at such election.

8. No person may be [9]* a member of a panchayat or continue as such who— Disqualifications.

(*a*) is under 21 years of age, or

(*b*) does not ordinarily reside in the village, or

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[1] Section 6 was substituted for the original by Bom. 18 of 1939, s. 4.

[2] Clause (*i*) and (*ii*) and the figures (*iii*) of clause (*iii*) which were inserted by Bom. 2 of 1945, s. 2 (*i*) were deleted by Bom. 60 of 1947, s. 2.

[3] This word was substituted for the word " eleven " by Bom. 60 of 1947, s. 4(*a*).

[4] Sub-section (*1A*) which was inserted by Bom. 2 of 1945, s. 2 (*2*), was deleted by Bom. 60 of 1947, s. 2.

[5] These words were substituted for the words district local board ", *ibid.*, s. 4 (*b*).

[6] These words were substituted for the words and figure " in the *Official Gazette* under section 7 ", by Bom. 2 of 1945, s. 2(*3*), read with Bom. 60 of 1947, s. 2.

[7] The word " elected " was deleted by Bom. 18 of 1939, sec. 5 (*i*).

[8] The words " and the names of members elected shall be published by the Collector in the *Official Gazette* " were deleted by Bom. 2 of 1945, sec. 3, read with Bom. 60 of 1947, s. 2.

[9] The words " elected or nominated " were deleted or nominated " were deleted by Bom. 18 of 1939, sec. 6 (*i*).

(*c*) has been sentenced by a criminal court to imprisonment or whipping for an offence [1][which involves moral turpitude and which is] punishable with imprisonment for a term exceeding six months, or to transportation, [2]* such sentence [3]* * not having been subsequently reversed or remitted, so long as such sentence has not expired [4]** unless he shall have by an order which [5][the Provincial Government] is hereby empowered to make, been relieved from the disqualification arising on account of such sentence [3]* * * , or

(*d*) has been adjudged by a competent court to be of unsound mind, or

(*e*) has been adjudicated an insolvent and has not obtained his discharge, or

(*f*) has been removed from office under section 21 and five years have not elapsed from the date of such removal, unless he shall have, by an order which the district local board after the expiry of one year from the date of such removal is hereby empowered to make, been relieved from the disqualification arising on account of such removal from office, or

(*g*) holds any salaried office or place of profit in the gift or disposal of the panchayat, while holding such office or place, or

(*h*) has directly or indirectly any share or interest in any contract with, by or on behalf of the panchayat while owning such share or interest, [6][or

(*i*) fails to pay any tax or fee due to the panchayat within three months from the date on or before which the amount of such tax or fee is required to be paid in the bill presented to the person under sub-section (*1*) of section 91, or

(*j*) is a servant of the Crown or a servant of any local authority ;]

[7]* * * *

Explanation [8][*1*].—A person shall not, by reason of being a shareholder in, or a member of, any incorporated or registered company or a co-operative society registered under the [9]Co-operative Societies Act, 1912, or the Bombay Co-operative Societies Act, 1925, be held to be interested in any contract entered into between the company or co-operative society and the panchayat. II of 1912. Bom. VII of 1925.

[10][*Explanation 2.*—For the purposes of clause (*j*) of this section, an officiating revenue or [11][police patel or a revenue or police patel who is an officiator under the Bombay Hereditary Offices Act, shall be deemed to be a servant of the Crown but] an inferior village servant shall not be deemed to be a servant of the Crown.] Bom. III of 1874.

Collector to declare election invalid.

9. (*1*) If the Collector, after such enquiry as he considers necessary, is satisfied that any member has been elected in contravention of the provisions of section 8, or that any corrupt practice or irregularity has been committed in connection with such election, and that such illegality, corrupt practice or irregularity has materially affected the result of the election, the Collector may declare the election of such member to be invalid, and such declaration shall be final :

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[1] These words were inserted by Bom. 18 of 1939, sec. 6 (*ii*).

[2] The words and figures " or has been ordered to furnish security for good behaviour under the Code of Criminal Procedure, 1898 ", were deleted, *ibid.*

[3] The words " or order " were deleted, *ibid.*

[4] The words " or so long as such order is in force " were deleted, *ibid.*

[5] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[6] The word " or " and clauses (*i*) and (*j*) were inserted by Bom. 18 of 1939, sec. 6 (*iii*).

[7] The proviso was deleted, *ibid.*, sec.6 (*iv*).

[8] This Explanation was numbered as Explanation 1 by Bom. 2 of 1945, sec. 4, read with Bom. 60 of 1947, s. 2.

[9] *See* Central Acts.

[10] This Explanation was inserted by Bom. 2 of 1948, read with Bom. 60 of 1947, s. 2.

[11] These words were substituted for the words " police patel or " by Bom. 60 of 1947, s. 2(*ii*).

Provided that when the Collector is satisfied that a corrupt practice has been committed by a member, the Collector shall, whether such corrupt practice has or has not materially affected the result of the election, declare the election of such member to be invalid and such declaration shall be final.

(*2*) A person shall be deemed to have committed a corrupt practice—

(*a*) who, with a view to inducing any voter to give or to refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit, or holds out any threat of injury, to any person, or

(*b*) who gives, procures, or abets the giving of a vote in the name of a voter who is not the person giving such vote.

Explanation 1.—A corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation 2.—" A promise of individual profit "—

(*i*) does not include a promise to vote for or against any particular measure which may come before a panchayat for consideration, but

(*ii*) subject thereto includes a promise for the benefit of the person himself or any person in whom he is interested.

Declaration if disqualification is incurred.

[1][**9A.** If at any time the Collector after such inquiry as he considers necessary and after giving an opportunity to the member concerned to be heard is satisfied that—

(*a*) a member appointed under sub-section (*3*) of section 6 was subject to any of the disqualifications mentioned in section 8 at the time of his appointment, or

(*b*) any member whether elected or appointed has incurred any of the disqualifications mentioned in section 8 after his election or appointment, as the case may be,

the Collector shall declare the appointment of such member invalid or that such member shall not continue to be the member of the panchayat, as the case may be.

Such declaration shall be final.]

Fresh election or appointment, if election or appointment is invalid.

10. If the Collector declares the election [2][or appointment of any member invalid or that any member shall not continue to be the member of a panchayat, under section 9 or 9A, as the case may be, a fresh election or appointment] for the vacancy so caused shall be held in accordance with the provisions of this Act.

Term of office of members.

11. (*1*) The [3]* members of a panchayat shall, save as otherwise provided in this Act, hold office for a term of three years.

(*2*) The Collector may, by order in writing, for reasons recorded therein, extend the said term for a period not exceeding [4][in the aggregate five years]. Any such order shall be notified in such manner as the Collector may approve.

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[1] Section 9A was inserted by Bom. 18 of 1939, sec. 7.

[2] These words, figures and letter were substituted for the words and figure " of any member invalid under section 9, a fresh election ", *ibid.*, sec. 8.

[3] The word " elected " was deleted, *ibid.*, sec. 9.

[4] These words were substituted for "one year " by Bom. 4 of 1949, s. 2.

Commencement of term of office.

12. [1][(*1*) The term of office of the members elected at a general election or appointed under sub-section (*3*) of section 6 shall be deemed to commence on the date of the first meeting of the panchayat. The first meeting of the panchayat shall be held on a day fixed by the president of the district local board within four weeks from the date on which the names of elected members are published under section [2][*6*]. If the president fails to fix such date within the time so specified the Collector shall fix such date.]

(*2*) The term of office of the outgoing members shall be deemed to extend to and expire with the day before such meeting.

[3]* * * * * *

[3]* * * * * *

Resignation of members.

13. Any [4]* member may resign his office by giving notice in writing to that effect to the sarpanch and such resignation shall take effect from the date of its receipt by the sarpanch.

Election of sarpanch and deputy sarpanch.

14. [5]*Every panchayat shall be presided over by a sarpanch who shall be elected by the members from among their own number. The panchayat shall also elect one of its members to be deputy sarpanch.

[5] * * * * * *

Term of office of sarpanch and deputy sarpanch.

[6][15. Save as otherwise provided in this Act, a sarpanch and a deputy sarpanch shall hold office for the term of a panchayat.]

Sarpanch to carry on current duties until his successor is appointed.

16. After the expiry of his term of office, the sarpanch shall continue to carry on the current duties of his office until such time as a new sarpanch shall have been elected and shall have taken over charge.

Election of sarpanch on establishment of panchyat, etc.

17. (*1*) On the establishment of a panchayat for the first time under this Act, or on its reconstitution or establishment under section 102 or 103, a meeting shall be called [7][on the date fixed under sub-section (*1*) of section 12] by the president of the district local board, who shall himself preside or appoint a person who is not a member of the panchayat to preside over the meeting. The president of the district local board or the person so appointed shall preside at such meeting but shall have no right to vote and the meeting shall then proceed to elect the sarpanch. In the case of an equality of votes the result of the election of the sarpanch shall be decided by lot to be drawn by the person presiding at the meeting in such manner as he may determine.

(*2*) On the expiry of the term of a panchayat, [8]* * * the sarpanch shall convene [9][on the date fixed under sub-section (*1*) of section 12] a meeting of the panchayat for the election of a new sarpanch. He shall preside at such meeting,

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[1] Sub-section (*1*) was substituted for the original by Bom. 18 of 1939, sec. 10 (*1*).
[2] This figure was substituted for the figure " 7 " by Bom. 60 of 1947, s. 5.
[3] Sub-sections (*3*) and (*4*) were deleted by Bom. 18 of 1939, sec. 10 (*2*).
[4] The words " elected or nominated " were deleted, *ibid.*, sec. 11.
[5] The brackets and figure " (*1*) " and sub-section (*2*) were deleted, *ibid.*, sec. 12.
[6] Section 15 was substituted for the original, *ibid.*, sec. 13.
[7] These words, brackets and figures were inserted, *ibid.*, s. 14 (*i*).
[8] The words and figures " or on the expiry of the period of one year for which a sarpanch ordinarily holds office as provided in section 15 " were deleted, *ibid*, s. 14(*ii*) (*a*).
[9] These words, brackets and figures were inserted, *ibid.*, s. 14 (*ii*) (*b*).

but shall not vote thereat unless he is a member of the panchayat at that time. In the case of an equality of votes the result of the election shall be decided by lot to be drawn by the presiding sarpanch in such manner as he may determine:

[1][Provided that when no meeting for the election of a sarpanch has been called by the retiring sarpanch on the date fixed under sub-section (*1*) of section 12 or if a meeting called by him for this purpose on the aforesaid date has not been attended by him, the president of the district local board shall proceed to convene a meeting of the panchayat in the manner described in sub-section (*1*) and a new sarpanch shall be elected accordingly.

If the president of the district local board fails to convene such meeting within a period of 15 days from the date fixed under sub-section (*1*) of section 12, the Collector himself shall convene such meeting. The president of the district local board or the Collector, as the case may be, shall nominate one of the members to preside at the meeting so convened. If the person so nominated fails to preside at the meeting the members present shall elect one of them to preside.]

[2][(*3*) In the event of a dispute arising as to the validity of the election of a sarpanch under sub-section (*1*) or sub-section (*2*), the dispute shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any court in respect of any such decision.]

Resignation by sarpanch or deputy sarpanch.

18. The deputy sarpanch may resign his office by giving notice in writing to the sarpanch.

The sarpanch may resign his office by giving notice in writing to the president of the district local board.

Such resignations shall take effect from the date of their acceptance.

Time and place of sitting of panchayat and procedure at meetings.

19. The time and place of sitting and the procedure at a meeting of the panchayat shall be in accordance with by-laws.

Executive of panchayat.

20. The executive power for the purpose of carrying out the provisions of this Act and the resolutions passed by a panchayat vests in the sarpanch who shall be directly responsible for the due fulfilment of the duties imposed upon the panchayat by or under this Act. In the absence of the sarpanch, the powers and duties of the sarpanch shall, save as may be otherwise prescribed by by-laws, be exercised and performed by the deputy sarpanch.

Removal from office.

21. The district local board may, after giving due notice to the panchayat and after such enquiry as it thinks fit, remove from office with the previous sanction of the Collector any member, or any sarpanch or deputy sarpanch who [3][has been guilty of misconduct, or neglect of or incapacity to perform his duty] or is persistently remiss in the discharge of his duties. A sarpanch or deputy sarpanch so removed may, at the discretion of the district local board, and subject to the like sanction also be removed from the panchayat [4]* * *
[5]* * * * * *

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[1] This proviso was substituted for the original by Bom. 18 of 1939, s. 14 (*iii*).
[2] This sub-section was added by Bom. 60 of 1947, s. 6.
[3] These words were substituted for the words "in its opinion is unfit to be member or sarpanch or deputy sarpanch as the case may be" by Bom. 18 of 1939, s. 15(*i*).
[4] The words "unless he is an *ex-officio* member of the panchayat" were deleted, *ibid.*, s. 15 (*ii*).
[5] The words "The panchayat may, with the previous sanction of the president of the district local board, and after due notice and inquiry remove the secretary of a panchayat from office for similar reasons" were deleted, *ibid.*, s. 15 (*iii*).

Leave of absence.

22. (*1*) Any [1]* member of a panchayat who, during his term of office,—

(*a*) is absent for more than four consecutive months from the village unless leave not exceeding six months, so to absent himself, has been granted by the panchayat ; or

(*b*) absents himself for six consecutive months from the meetings of the panchayat without the leave of the said panchayat,

shall cease to be a member and his office shall become vacant.

(*2*) Any dispute as to whether a vacancy has or has not occurred under this section shall be referred for decision to the Collector whose decision shall be final.

Filling up of vacancies.

23. (*1*) Any vacancy of which notice shall have been given to the Collector in the prescribed manner due to the disablement, death, resignation, disqualification, absence without leave or removal of a sarpanch or a deputy sarpanch, or [2][a] member, shall be filled, by the election of a sarpanch or deputy sarpanch or [3]* * * * a member, who shall hold office so long only as the sarpanch, deputy sarpanch or member, in whose place he has been elected, [4]* * * would have held office if the vacancy had not occurred :

[5][Provided that if no member is so elected within four weeks from the date on which notice of the vacancy is given to the Collector, the standing committee of the district local board shall, within the next four weeks, appoint a person who would have been qualified to be elected. If the standing committee of the district local board fails to make any such appointment within the time specified, the Collector shall make such appointment and the person so appointed shall be deemed to have been duly elected under this sub-section.]

[6][Provided further that notwithstanding anything contained in section 6, if the vacancy be of an elected member and occurs within four months preceding the date on which the term of office of the members of the panchayat expires under section 11, the vacancy shall not be filled.]

(*2*) The meeting for the election of a sarpanch under sub-section (*1*) shall be convened by the president of the district local board in the manner described in sub-section (*1*) of section 17.

Vacancy not to affect proceedings of panchayat

24. During any vacancy in the panchayat, the continuing members may act as if no vacancy had occurred.

Temporary provision pending establishment of panchayats under this Act.

25. Notwithstanding anything contained in this Act, the village fund shall, until such date as [7][the Provincial Government] may notify in the [8][*Official Gazette*], be administered, so far as may be, under the provisions of this Act by the panchayats constituted under the Bombay Village Panchayats Act, 1920, which panchayats shall be deemed to have been established under this Act.

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[1] The words " elected or nominated " were deleted, by Bom. 18 of 1939, s. 16.

[2] The letter " a " was substituted for the words " an elected or nominated ", *ibid.*, s. 17(*i*).

[3] The words " the election or nomination of " were deleted, *ibid.*, s. 17 (*ii*).

[4] The words " or nominated " were deleted *ibid.*, s. 17 (*iii*).

[5] This proviso was added by Bom. 60 of 1947, s. 7.

[6] This further proviso was added by Bom. 4 of 1949, s. 3.

[7] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[8] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* ", *ibid.*

CHAPTER III.

ADMINISTRATIVE POWERS AND DUTIES.

26. (*1*) It shall be the duty of a panchayat, so far as the village funds at its disposal will allow subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :— Administrative powers and duties of panchayats.

(*a*) the supply of water for domestic use ;

(*b*) the cleansing of the public roads, drains, bunds, tanks and wells (other than tanks and wells used for irrigation) and other public places or works ;

(*c*) the construction, maintenance and repair of public roads, drains, bunds and bridges :

Provided that, if the roads, drains, bunds and bridges vest in any other public authority, such works shall not be undertaken without the consent of such authority ;

(*d*) sanitation, conservancy, and the prevention and abatement of nuisances ;

(*e*) the preservation and improvement of the public health ;

(*f*) the maintenance and regulation of the use of public buildings, grazing lands, forest lands (including lands assigned under section 28 of the [1]Indian Forest Act, 1927), tanks and wells (other than tanks and wells used for irrigation), vesting in or under the control of the panchayat ; XVI of 1927.

(*g*) the lighting of the village ;

(*h*) control of fairs, bazars, slaughter-houses and cart-stands ; and

(*i*) provision, [2][maintenance and regulation] of burning and burial grounds.

[3]* * * *

[4][(*2*)] A panchayat may, with the previous sanction of the district local board, also make provision for carrying out outside the village any work of the nature specified in [5][sub-section (*1*)].

[6][**26A.** (*1*) It shall be competent to a panchayat, so far as the village fund at its disposal will allow and subject to the general control of the district local board, to make reasonable provision within the village in regard to the following matters, namely :— Discretionary powers and duties of panchayats.

(*a*) crop experiments ;

(*b*) construction and maintenance of slaughter-houses ;

(*c*) relief of the destitute and the sick ;

(*d*) improvement of agriculture ;

(*e*) co-operative farming ;

(*f*) improvement of cattle and their breeding and the general care of the live-stock ;

(*g*) establishment of granaries ;

(*h*) village libraries and reading-rooms ;

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[1] *See* Central Acts.
[2] These words were substituted for the words " and maintenance " by Bom. 60 of 1947, s.8.
[3] Sub-section (*2*) was deleted, *ibid.*
[4] Sub-section (*3*) was renumbered as sub-section (*2*), *ibid.*
[5] This was substituted for " sub-sections (*1*) and (*2*), *ibid.*
[6] This section was inserted, *ibid.*, s. 9.

(*i*) planting of trees along roads in market places and other public places and their maintenance and preservation ;

(*j*) lay-out and maintenance of play-grounds for village children and of public gardens ;

(*k*) promotion, improvement and encouragement of cottage industries ;

(*l*) destruction of stray and ownerless dogs ;

(*m*) construction and maintenance of dharamshalas ;

(*n*) management and control of ghats which are not managed by any other authority ;

(*o*) assistance to the residents when any natural calamity occurs ;

(*p*) disposal of unclaimed corpses and carcasses and unclaimed cattle ;

(*q*) construction and maintenance of public latrines ;

(*r*) establishment and maintenance of markets ;

(*s*) watch and ward of the village and the crops therein :

Provided that the cost of watch and ward under paragraph (*s*) shall be levied and recovered by the panchayat from such persons in the village and in such manner as may be prescribed ;

(*t*) construction and maintenance of houses for the conservancy staff of the panchayat.

(*2*) A panchayat may also make provision for carrying out within the village any other work or measure which is likely to promote the health, safety, education, comfort, convenience or social or economic well-being of the inhabitants of the village.]

Powers of district local board to transfer maintenance of institutions and execution of other works.

27. The district local board may, at any time, with the consent of the panchayat, transfer to such panchayat the management of any institution or the execution of any work not provided for in section 26, and it shall thereupon be lawful for such panchayat to undertake the management of such institution or the execution of such work :

Provided that in every such case the funds necessary for such management or execution shall be placed at the disposal of the panchayat by the district local board.

Other duties.

28. (*1*) The panchayat shall,—

(*i*) subject to the regulations made by the local authority under the [1]Bombay Primary Education Act, 1923, supervise the village school and carry out such repairs as may be necessary for the maintenance and upkeep of the same ; and, Bom. IV of 1923.

(*ii*) subject to by-laws to be made by the district local board in this behalf,—

(*a*) supervise the labour employed by local boards on works within the village ;

(*b*) supervise repairs to dharamshalas ;

(*c*) manage and maintain cattle pounds ; and

(*d*) execute such works as are entrusted to it by the district local board ; and

(*iii*) subject to such conditions as [2][the Provincial Government] may impose and with the consent of the panchayat concerned, perform such other administrative duties including the distribution of irrigation water as may be assigned to it by [2][the Provincial Government] by notification in the [3][*Official Gazette*], after consultation with the district local board.

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[1] See now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*2*) The regulations to be made by the local authority shall be made within six months from the passing of this Act. If no such regulations are made within the said period [1][the Provincial Government] may make rules for the purpose.

(*3*) A panchayat shall not be bound to carry out repairs to a village school under clause (*i*) of sub-section (*1*) unless sufficient funds have been placed at the disposal of the panchayat by the local authority or the School Board, as the case may be, or to perform the duties specified in clause (*ii*) of sub-section (*1*) unless sufficient funds have been placed at the disposal of the panchayat by the district local board.

Joint Committees of two or more local bodies.

[2][**28A.** (*1*) A panchayat may, from time to time, concur with any other panchayat or with any municipality, district local board or cantonment authority or committee appointed for a notified area or with more than one such panchayat, municipality, district local board, authority or committee,—

(*a*) in appointing out of their respective bodies a joint committee for any purpose in which they are jointly interested and in appointing a chairman of such committee;

(*b*) in delegating to any such committee power to frame terms binding on each such body as to the construction and future maintenance of any joint work and any power which might be exercised by either or any of such bodies; and

(*c*) in framing and modifying rules for regulating the proceedings of any such committee and the conduct of correspondence, relating to the purpose for which the committee is appointed.

(*2*) A panchayat may from time to time enter, subject to the sanction of the Provincial Government, into an agreement with any other panchayat, or with any municipality, district local board, cantonment authority or committee appointed for a notified area or with a combination of any such bodies, for the levy of octroi duty whereby the octroi duties respectively leviable by the bodies so contracting may be levied together instead of separately within the limits of the area subject to the control of the said bodies.

(*3*) Where a panchayat has requested the concurrence of any other local authority under the provisions of sub-section (*1*) or (*2*) in respect of any matter and such other local authority has refused to concur, the Commissioner may pass such orders as he may deem fit requiring the concurrence of such other local authority, not being a cantonment authority, in the matter aforesaid and such other local authority shall comply with such orders.

(*4*) If any difference of opinion arises between local bodies acting under this section, the decision thereupon of the Provincial Government or of such officer as it appoints in this behalf shall be final:

Provided that, where one of the local bodies is a cantonment authority, the decision of the Provincial Government, or of the officer, shall be subject to the concurrence of the Central Government.]

Government may vest certain lands in panchayat.

[3][**28B.** For the purposes of this Chapter, the Provincial Government may, subject to such conditions and restrictions as it may think fit to impose, vest in a panchayat open sites, waste, vacant or grazing lands or public roads and streets, wells, river-beds, tanks, trees or any other property in the village vesting in the Crown.]

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] Section 28A was inserted by Bom. 4 of 1949, s. 4.

[3] This section was inserted by Bom. 60 of 1947, s. 10 and was renumbered as 28B by Bom. 4 of 1949, s. 4.

CHAPTER IV.

INCORPORATION OF VILLAGE PANCHAYAT; ITS PROPERTY AND FUND.

Incorporation of village panchayat.

29. Every panchayat shall be a body corporate by the name of "the village panchayat of ," and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall be competent to acquire and hold property, both moveable and immovable whether within or without the limits of the village over which it has authority, to lease, sell or otherwise transfer moveable or immovable property which may become vested in or be acquired by it, and to contract and do all other things necessary for the purposes of this Act:

Provided that no lease of immovable property [other than property referred to in sub-section (*1*) of section 30] for a term exceeding [1][three] years and no sale or other transfer of any such property shall be valid unless such lease, sale or other transfer shall have been made with the previous sanction of the Collector.

Property of panchayat.

30. (*1*) It shall be competent to a local board from time to time to direct that any property vesting in such local board shall vest in panchayat [2][and on such direction being issued, the property shall vest in the panchayat notwithstanding anything contained in the Transfer of Property Act, 1882, or the Indian Registration Act, 1908.]: V of 1882. XVI of 1908.

[3][Provided that no lease, sale or other transfer of any such immovable property by the panchayat shall be valid without the previous sanction of the Commissioner and of such local board.]

(*2*) Every work constructed by a panchayat out of the village fund shall vest in such panchayat.

Village fund.

31. (*1*) There shall be in each village a fund, which shall be called the village fund.

(*2*) The following shall form part of, or be paid into, the village fund, namely :—

(*a*) the amount which may be allotted to the village fund by [4][the Provincial Government] under the provisions of section 191 of the Bombay District Municipal Act, 1901; Bom. III of 1901.

(*b*) the proceeds of any tax or fee imposed under section 89;

(*c*) all [5]* * * sums ordered to be paid as compensation realised under sections 45 and 46;

(*d*) all other sums ordered by a court to be placed to the credit of the village fund;

(*e*) the sale proceeds, except in so far as any person entitled to the whole or a portion thereof, of all dust, dirt, dung or refuse (including the dead bodies of animals) collected by the village servants;

(*f*) sums contributed to the village fund by [4][the Provincial Government] or a district local board;

(*g*) all sums received by way of loans from [4][the Provincial Government] or the district local board or by way of gift;

[6]* * * * * * * * *

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[1] The word "three" was substituted for the word "seven" by Bom. 18 of 1939, s. 18.
[2] This portion was inserted by Bom. 60 of 1947, s. 11.
[3] This proviso was substituted for the original, *ibid.*
[4] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[5] The words "fines and" were omitted, *ibid.*
[6] Clause (*h*) was omitted, *ibid.*

(*i*) the income or proceeds of any property vesting in the panchayat; and
(*j*) fees levied for the institution of suits and cases under section 59.

32. All property vested in the panchayat under this Act, and all funds received by it in accordance with the provisions of this Act, and all sums accruing to it under the provisions of any law for the time being in force shall be applied subject to the provisions and for the purposes of this Act and all such funds and sums shall be kept in such custody as may be prescribed. Application of village fund.

CHAPTER V.

ESTABLISHMENT AND ACCOUNTS.

[1][**33.** (*1*) Every panchayat shall appoint a Secretary who shall be a servant of the panchayat. His qualifications, powers, duties, remuneration and conditions of service (including disciplinary matters) shall be such as may be prescribed. Secretary of panchayat.

(*2*) The Provincial Government shall pay three-fourths of the salary and allowances of such Secretary.

Bom. LX of 1947. (*3*) Every Secretary of a panchayat in office on the date of the coming into operation of the Bombay Village Panchayats (Amendment) Act, 1947, shall be deemed to have been appointed under sub-section (*1*).]

34. Subject to the provisions of section 98, a panchayat shall determine and submit for information to the district local board a schedule of the number and salaries of its servants required for carrying out the duties imposed upon the panchayat by or under this Act. Schedule of servants.

35. (*1*) The sarpanch shall appoint the servants of the panchayat and pay their salaries from the village fund at his disposal. He may also, in cases of emergency, engage such temporary servants as he may deem necessary. The sarpanch may, from time to time, by a written order, fine, suspend or dismiss any servant appointed by him. Appointment of servants.

(*2*) An appeal shall lie against an order passed under sub section (*1*) to the panchayat.

36. (*3*) A panchayat shall determine annually and shall submit to the district local board, on or before such date and in such form as may be prescribed by [2][the Provincial Government], a statement of— Budget and accounts. Panchayat to convene a meeting of residence of village.

(*a*) the opening balance and estimated income of the panchayat for the following year;

(*b*) the expenditure proposed on establishment and the discharge of the duties specified in sub section (*1*) of section 26;

(*c*) the expenditure proposed under [3][section 26A] and sub-section (*1*) of section 28.

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[1] Section 33 was substituted for the original by Bom. 60 of 1947, s. 12.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This was substituted for "sub-section (2) of section 26" by Bom. 60 of 1947, s. 13.

(*2*) The district local board shall, within three months from the date of the receipt of such statement, either approve the same or direct that the proposed expenditure on any of the duties specified in sections 26 and 28 shall be increased or decreased:

Provided that the district local board shall not have power to direct that the total proposed expenditure shall exceed the estimated income of the village fund for the following year and the opening balance.

[1][(*3*) The Secretary appointed under section 33 shall keep the accounts of the panchayat in such form as may be prescribed. He shall prepare the annual report of the administration of the panchayat and shall place the accounts and the report for approval before the panchayat. The annual statements of such accounts together with the annual report as approved shall be sent to the district local board on or before such date and in such form as may be prescribed.

[1][(*4*) A panchayat shall convene in a manner and at a time prescribed a meeting of all adult residents of the village and the statements of the accounts together with a report on the administration for the preceding year and the programme of the work proposed for the year following shall be read out and explained at such meeting.]

CHAPTER VI.

CONSTITUTION AND POWERS OF [2][NYAYA PANCHAYATS].

Election of [2][nyaya panchayats.]

[3][**37.** (*1*) Every panchayat shall at its first meeting elect out of its members in the manner prescribed five persons for the purpose of constituting a [2][*nyaya panchayat*].

[4][(*1A*) If any question, doubt or dispute arises as to the validity of the election of a member of a *nyaya panchayat* under sub-section (*1*), it shall be referred to the Collector for decision. The decision of the Collector shall be final and no suit or other proceeding shall lie in any Court in respect of such question, doubt or dispute.

(*2*) The five persons so elected shall constitute a [2][*nyaya panchayat*] and the Provincial Government shall direct that such [2][*nyaya panchayat*] may exercise all or any of the judicial powers which may be conferred on the [2][*nyaya panchayat*] under this Act: Provided that the Provincial Government may at any time, by notification in the Official Gazette, withdraw all or any of the judicial powers conferred on a [2][*nyaya panchayat*] if, in the opinion of the Provincial Government, such [2][*nyaya panchayat*] has been incompetent in the exercise of or has been guilty of the abuse of the said powers.

(*3*) Save as herein provided the term of office of the members of such [2][*nyaya panchayat*] shall be co-extensive with the term of their office as the members of the panchayat.

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[1] Sub-sections (*3*) and (*4*) were substituted for the original by Bom. 18 of 1939, s. 20.
[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[3] Sections 37, 37A, 37B and 37C were substituted for section 37 by Bom. 18 of 1939, s. 21.
[4] This sub-section was inserted by Bom. 60 of 1947, s. 14.

(*4*) If any vacancy arises in the office of any of the members of such [1][*nyaya panchayat*], it shall be filled by election in the manner prescribed. The member so elected shall hold office so long only as the member in whose place he has been elected would have held office if the vacancy had not occurred.

(*5*) Out of the members so elected three members shall form a quorum.

(*6*) Save as provided in this Act, the Provincial Government may make rules to regulate—

(*a*) the conduct and distribution of business and practice before a [1][*nyaya panchayat*].

(*b*) the times and places at which the [1][*nyaya panchayat*] shall sit.

(*c*) any other matter which in the opinion of the Provincial Government may be necessary for the conduct of proceedings before a [1][*nyaya panchayat.*]

Chairman of [1][*nyaya panchayat.*]

[2][**37A.** Every [1][*nyaya panchayat*] shall have a Chairman. The Chairman shall be elected by the [1][*nyaya panchayat*], from amongst the members of the [1][*nyaya panchayat*] and the term of office of the Chairman of such [1][*nyaya panchayat*] shall be co-extensive with the term of the [1][*nyaya panchayat*].

Judicial Clerk of Panchayat.

[2][**37B.** The Secretary of a panchayat shall act as the judicial clerk of the [1][*nyaya panchayat*] for the purpose of recording its proceedings and decisions and doing such other duties as may be prescribed.]

Removal of a member from the [1][*nyaya panchayat*].

[2][**37C.** (*1*) The Provincial Government, if it thinks fit, may remove any member elected on the [1][*nyaya panchayat*] after giving him an opportunity of being heard and after such inquiry as the Provincial Government deems necessary, if in the opinion of the Provincial Government such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or neglects or refuses to perform or has been incapable of performing any of the duties as a member of the [1][*nyaya panchayat*].

(*2*) If any inquiry is held under sub-section (*1*), the Provincial Government may suspend such member from being on the [1][*nyaya panchayat*] for such period as it thinks fit.

(*3*) The removal or suspension of such member under sub-section (*1*) or (*2*) shall not by reason of that fact alone disqualify him from being a member of a panchayat.

(*4*) A person removed from a [*nyaya panchayat*] under sub-section (*1*) shall not be eligible for re-election on such [*nyaya panchayat*].

Saving of pending proceedings.

38. Every suit or case of the nature specified in section 39 or 41, pending in any court and cognizable by a [1][*nyaya panchayat*] empowered under section 37 and all proceedings arising from and incidental to any such suit or case shall be tried, heard and determined by such court or any other court having jurisdiction to try, hear and determine the same, as if this Act had not been passed.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These sections were substituted for section 37 by Bom. 18 of 1939, s. 21.

Suits triable by [2][*nyaya panchayat.*]

39. (*1*) Save as otherwise provided in section 40, [1][power to try all or any of the following suits may be conferred on a [2][*nyaya panchayat*] under section 37,] namely :—

(*a*) suits for money due on contracts, not affecting any interest in immoveable property ;

(*b*) suits for the recovery of moveable property or for the value of such property ;

(*c*) suits for compensation for wrongfully taking and injuring moveable property ;

where the amount or value of the claim does not exceed twenty-five rupees.

(*2*) With the written consent of both the parties, recorded in the presence of the [2][*nyaya panchayat*], suits of the nature described in sub-section (*1*), but the value of which does not exceed one hundred rupees, shall be triable by such [2][*nyaya panchayat*].

(*3*) [3][The Provincial Government] may, by notification in the [4][*Official Gazette*], direct that any [2][*nyaya panchayat*] may try any suit of the nature described in sub-section (*1*), up to such value as may be specified in the notification not exceeding one hundred rupees.

Suits not triable by [2][*nyaya panchyat.*]

40. No suit shall be brought before any [2][*nyaya panchayat*]—

(*i*) on a balance of partnership account ;

(*ii*) for a share or part of a share under any intestacy, or for a legacy or part of a legacy under a will ;

(*iii*) by or against [5][the Crown] or any local authority or an officer or servant of [6][the Crown] or a member, officer or servant of a local authority in his official capacity ;

(*iv*) by or against a minor or a person of unsound mind ; and

(*v*) on account of any dispute or matter in respect of which any suit or application would be cognizable by a revenue court.

Offences cognizable by [2][*nyaya panchayat.*]

[7][**41.** Power to take cognizance of and try all or any of the following offences may be conferred on [2][*nyaya panchayat*] under section 37, namely :— XLV of 1860.

(*a*) Under the Indian Penal Code—

	Section.
Negligently doing any act known to be likely to spread the infection of any disease dangerous to life	269
Fouling the water of a public spring or reservoir ..	277
Causing danger, obstruction or injury to any public way ..	283

[1] These words and figures were substituted for the words "the village bench shall have power to try the following suits," by Bom. 18 of 1939, s. 22.

[2] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[3] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] The words "the Crown" were substituted for the words "the Secretary of State for India in Council" *ibid.*

[6] The words "the Crown" were substituted for the word "Government", *ibid.*

[7] Section 41 was substituted for the original by Bom. 18 of 1939, s. 23.

		Section
	Voluntarily causing hurt	323
	Assault or use of criminal force otherwise than on grave and sudden provocation	352
	Assault or use of criminal force on grave and sudden provocation	358
	Theft, where the value of the property stolen does not exceed Rs. 20	379
	Mischief when the loss or damage caused does not exceed Rs. 20 in value	426
	Criminal trespass	447
	House trespass	448
	Dishonestly breaking open or unfastening any closed receptacle containing or supposed to contain property	461
	Intentional insult, with intent to provoke a breach of the peace.	504
I of 1871.	(*b*) Under the Cattle-trespass Act, 1871—	
	Forcibly opposing the seizure of cattle or rescuing the same ..	24
XI of 1890.	[1][(*c*) Under the Prevention of Cruelty to Animals Act, 1890—	
	Practising phooka	4
	Killing animals with unnecessary cruelty	5
	Being in possession of the skin of a goat killed with unnecessary cruelty	5A
	Employing animals unfit for labour	6
	Baiting or inciting animals to fight	6C
	Permitting diseased animals to go at large or to die in public places	7
Bom. IV of 1890.	(*d*) Under the Bombay District Police Act, 1890—	
	Being drunk and incapable of taking care of himself in a street or public place or place of public resort	61(*1*) (*p*)
Bom. I of 1892.	(*e*) Under the Bombay District Vaccination Act, 1892—	
	Inoculating, entering a vaccination area after inoculation, and bringing person inoculated into area	22
	Disobedience of order of the Magistrate for the vaccination of any unprotected child under 14 years	23
	Not producing child	24
	Neglecting to take child to be vaccinated	25
Bom. IV of 1923.	(*f*) Under the Bombay Primary Education Act, 1923[2]—	
	Failure to cause child to attend school	21
	Employing child liable for compulsory education ..	22
Bom. V of 1925.	(*g*) Under the Bombay Prevention of Adulteration Act, 1925—	
	Sale or manufacture of food not of the proper nature, substance or quality	4
	(*h*) Breaches of by-laws made punishable under this Act :] ..	

[1] These clauses were substituted for clause (c) by Bom. 18 of 1939, s. 15.
[2] *See* now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

Provided that no offence of theft shall be cognizable by any [1][*nyaya panchayat*], unless an accused person has been either apprehended or recognised and named.

Certain persons accused of theft not to be tried by [1][*nyaya panchayat*].

42. No [1][*nyaya panchayat*] shall take cognizance of any offence of theft punishable under section 379 of the Indian Penal Code in which the accused— XLV of 1860.

(*a*) has been previously convicted of an offence punishable, under Chapter XII or Chapter XVII of the Indian Penal Code, with imprisonment of either description for a term of three years or upwards; XLV of 1860.

(*b*) has been previously fined for theft by any [2][*nyaya panchayat*];

(*c*) is a registered member of a criminal tribe under section 4 of the [3]Criminal Tribes Act, 1924; or VI of 1924.

(*d*) has been bound over to be of good behaviour in proceedings instituted under section 109 or, section 110 of the Code of Criminal Procedure, 1898. V of 1898.

Offences by or against public servant not cognizable by [1][*nyaya panchayat*].

43. No [1][*nyaya panchayat*] shall take cognizance of any offence specified in section 41 in which either the complainant or the accused is a public servant serving in the district in which the village for which the panchayat is established is situated:

Provided, however, that a [1][*nyaya panchayat*] shall not be debarred from taking cognizance of an offence for a breach of a by-law, notwithstanding that the complainant in the case is a public servant.

Conviction by a [1][*nyaya panchayat*] not a previous conviction.

44. A conviction by a [1][*nyaya panchayat*] under this Act shall not be deemed to be a previous conviction for the purposes of section 75 of the Indian Penal Code. XLV of 1860.

Maximum penalties.

45. (*1*) The following are the maximum penalties which may be inflicted by a [4][*nyaya panchayat*] for the offences mentioned in section 41:—

(*a*) Under the Indian Penal Code—

Fine not exceeding Rs. [4][20] or double the amount of the loss or damage caused up to a limit of Rs. [4][40].

(*b*) Under section 24 of the [3]Cattle-trespass Act, 1871—

Fine not exceeding Rs. [4][10].[5]*

[6][(*bb*) Uder section 21 of the BombayPrimary Education Act, 1923[7]— Bom. IV of 1923.

Fine as provided in that section;

(*bc*) Under section 22 of the Bombay Primary Education Act, 1923[7], or under the provisions of any other Act mentioned in section 41— Bom. IV of 1923.

Fine not exceeding Rs. 20; and]

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These words were substituted for the word "panchayat", *ibid.*, s. 16.

[3] The Criminal Tribes Act, 1924 has ceased to extend to the Province of Bombay with effect from the 13th August 1949. (*Vide* G. N., H. D., No. 9642/5, dated the 5th August 1949). *See* therefore the Bombay Habitual Offenders Restriction Act, 1947 (Bom. 51 of 1947).

[4] These figures were substituted for the original, *ibid.*, s. 17.

[5] The word "and" was deleted, *ibid.*

[6] These clauses were inserted, *ibid.*

[7] *See* now the Bombay Primary Education Act, 1947 (Bom. 61 of 1947).

(*c*) For a breach of a by-law made punishable under this Act—

Fine not exceeding Rs. 10 or Re. 1 a day for a continuing breach as provided in sub-section (*3*) of section 109.

(*2*) No sentence of imprisonment, whether substantive or in default of fine or of whipping, shall be inflicted by a [1][*nyaya panchayat*].

46. [2][The Provincial Government] may empower, by a notification in the [3][*Official Gazette*] a [1][*nyaya panchayat*] to inflict the following maximum penalties :— Power of Provincial Government to empower particular [1][*nyaya panchayat*] to inflict enhanced penalties.

(*a*) Under the sections of the Indian Penal Code mentioned in section 41—

Fine not exceeding Rs. [4][40] or double the amount of the damage or loss caused, whichever is greater.

I of 1871. (*b*) Under section 24 of the [5]Cattle-trespass Act, 1871—

Fine not exceeding Rs. [4][20].

[6](*c*) under the provisions of any other Act mentioned in section 41 except the Bombay Primary Education Act, 1923[7]— Bom. IV of 1923.

Fine not exceeding Rs. [4][50].

47. In inflicting any fine under section 45 or section 46, the [1][*nyaya panchayat*] may direct that the whole or any portion of the fine recovered shall be applied— Compensation to complainants.

(*a*) towards defraying the expenses properly incurred in the case by the complainant, or

(*b*) in giving compensation to a person for any material loss or damage caused to him by reason of the commission of the offence.

48. If a [1][*nyaya panchayat*] is satisfied, after enquiry, that a case brought before it is false, frivolous or vexatious, such [1][*nyaya panchayat*] may order the complainant to pay the accused such compensation, not exceeding Rs. 5, as it thinks fit. Compensation to accused for false or frivolous case.

49. Instead of passing any sentence, a [1][*nyaya panchayat*] may discharge, after due admonition, a youthful offender who, in the opinion of such [1][*nyaya panchayat*] is, at the time of conviction of the offence, under the age of sixteen years. Youthful offenders.

50. No member of a [1][*nyaya panchayat*] who is a party to, or has any interest in, any suit or case, shall sit on the [1][*nyaya panchayat*] while it is trying such suit or case. Members interested not to sit on [1][*nyaya panchayta*].

Any dispute as to whether a member of a [1][*nyaya panchayat*] is a party to or interested in a suit or case shall, on a written application of a party to such suit or case, be referred to the Collector or such officer as he may authorise in this behalf for decision. The decision of the Collector or such officer shall be final.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] These figures were substituted for the original by Bom. 60 of 1947, s. 18.

[5] *See* Central Acts.

[6] This clause was inserted by Bom. 60 of 1947, s. 18.

[7] *See* foot-note 7 on pre-page.

Res judicata and pending suits and cases.

51. (*1*) No [1][*nyaya panchayat*] shall try any suit or issue in respect of any matter which is pending for decision in, or has been heard and decided by, a court of competent jurisdiction in a previously instituted suit between the same parties or those under whom they claim.

(*2*) Where an accused person has been tried for any offence, no [1][*nyaya panchayat*] shall take cognizance of such offence or, on the same facts, of any other offence of which the accused might have been charged or convicted.

Suits to include whole claim.

52. Every suit instituted before a [1][*nyaya panchayat*] shall include the whole of the claim which the plaintiff is entitled to make in respect of the matter in dispute but he may relinquish any portion of his claim in order to bring the suit within the jurisdiction of the [1][*nyaya panchayat*].

If a plaintiff [2][intentionally omits to sue in respect of or] relinquishes any portion of his claim, he shall not afterwards sue in respect of the portion so omitted or relinquished.

Limitation for suits and cases.

53. (*1*) No suit shall be entertained by a [1][*nyaya panchayat*] after the expiration of one year from the time when the right to sue first accrued.

(*2*) No case shall be cognizable by a [1][*nyaya panchayat*] after the expiration of one month from the date on which the offence was committed.

[1][*Nyaya panchayat* before which suits to be instituted.

54. Every suit under this Act shall be instituted before the [1][*nyaya panchayat*] of the village in which the defendant or each of the defendants, where there are more than one, resides at the time of the institution of the suit, irrespective of the place where the cause of action arose.

[1][*Nyaya panchayat* before which cases to be] instituted.

55. Every case under this Act shall be instituted before the [1][*nyaya panchayat*] of the village in which the offence was committed.

Return of complaints.

56. Any magistrate upon receiving a complaint of facts constituting an offence cognizable by a [1][*nyaya panchayat*] shall, unless reason to the contrary be shown to the satisfaction of the magistrate, return the complaint for presentation to the [1][*nyaya panchayat*] having jurisdiction to try the same.

Bar of jurisdiction of courts in suits and cases.

57. Notwithstanding anything contained in any law for the time being in force, no court, subject to the provisions of section 56, shall entertain any suit specified in section 39 or take cognizance of any offence specified in section 41, unless and until [3][the District Court or the District Magistrate, as the case may be], has passed an order in writing under section 77 or 87.

Bom. Act VIII of 1867, sections 14, 15 and 16 not to apply to village which has [*nyaya panchayat*.]

58. Notwithstanding anything contained in the Bombay Village Police Act, 1867, the provisions of sections 14, [4][15 and 16] of the said Act shall not apply to any village in which a [1][*nyaya panchayat*] shall have been constituted under [5]* * section 37. Bom. VIII of 1867.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These words were substituted for the words "omits to sue in respect of or intentionally" by Bom. 18 of 1939, s. 24.

[3] These words were substituted for the words "the District Judge or the Collector" by Bom. 18 of 1939, s. 25.

[4] The figures and word "15 and 16" were inserted, *ibid.*, s. 26 (*a*).

[5] The words, figure and brackets "sub-section (*1*) of" were deleted, *ibid.*, s. 26 (*b*).

[1][58A. A [2][*nyaya panchayat*] newly constituted on the expiry of the term of office of the members of another [2][*nyaya panchayat*] or a [2][*nyaya panchayat*] newly constituted on the dissolution of another [2][*nyaya panchayat*] under section 106, shall hear and dispose of all suits, cases and proceedings pending before the latter at the date of the expiry of such term or at the date of such dissolution: Pending cases before [2][*nyaya panchayat*] when term of office has expired.

Provided that the hearing of such suits, cases and proceedings shall commence anew before the [2][*nyaya panchayat*] newly constituted, as if such suits, cases and proceedings were instituted before it].

CHAPTER VII.

PROCEDURE OF PANCHAYATS IN SUITS AND CASES.

59. Any person who wishes to institute a suit or case under this Act before a [2][*nyaya panchayat*] shall make an application orally or in writing to the Chairman or during his absence from the village to such other member of the [2][*nyaya panchayat*] as the Chairman may appoint in this behalf and shall at the same time pay the prescribed fees. Suits and cases; how instituted.

60. The substance of the application shall be recorded without delay in the prescribed register and the signature or thumb-impression of the applicant shall be taken on the register and the register shall be signed by the Chairman or, in his absence, by any member authorised under section 59. Substance of application to be recorded.

61. Every suit or case instituted in accordance with the provisions of section 59 shall be brought before the [2][*nyaya panchayat*] at its next sitting and the plaintiff or complainant, as the case may be, shall, at the time of making the application, be informed of the time and place fixed for such sitting and directed to attend at that time and place. Plaintiff or complainant to attend next sitting of [2][*nyaya panchayat*.]

62. The [2][*nyaya panchayat*] after hearing the application, shall cause a written summons in the prescribed form to be served on the defendant or accused, as the case may be, requiring him to attend and produce his evidence at such time and place as may be stated in the summons and shall, at the same time, direct the plaintiff or complainant to attend and produce his evidence at such time and place: Summons to be issued to defendant or accused.

Provided that the [2][*nyaya panchayat*] may, for reasons to be recorded, after hearing the application and examining the plaintiff or complainant, refuse to issue a summons and dismiss the suit or complaint.

63. Such summons shall ordinarily be caused to be served by the patel or village headman. Where there are two patels in a village, one of whom is a revenue patel and the other a police patel, the summons shall ordinarily be served by the revenue patel if it relates to a suit and by police patel if it relates to a case: Summons by whom served.

Provided, however, that a [2][*nyaya panchayat*] may cause the summons to be served through any other person.

64. The summons shall be in duplicate, signed by the presiding member of the [2][*nyaya panchayat*] and shall, as far as possible, be served personally on the defendant or accused, as the case may be, whose signature or thumb-impression shall be taken in token of service. If the defendant or accused cannot be found and the Mode of service of summons.

[1] Section 58A was inserted, by Bom. 18 of 1939, s. 27.
[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, 25.

[1][*nyaya panchayat*] is satisfied that he is evading service or if he refuses to take the summons, the [1][*nyaya panchayat*] may order service to be made on an adult male member of his family residing with him, or by affixing a copy thereof upon some conspicuous part of the house in which he ordinarily resides.

Mode of service outside village.

65. If a defendant or accused is, at the time of the issue of the summons, outside the village of the panchayat, the summons may be forwarded by the [1][*nyaya panchayat*] to the Collector or to any officer not below the rank of a mamlatdar, who may be authorised by the Collector in this behalf, and the Collector or such officer shall cause the summons to be served as if it were summons from his own court.

Exemption of certain persons from appearance in suits.

66. (*1*) Women who, according to the customs and manners of the country, ought not to be compelled to appear in public, shall be exempt from personal appearance before a [1][*nyaya panchayat*] in any suit.

(*2*) Persons exempted from personal appearance in any court under section 133 of the Code of Civil Procedure, 1908, shall also be exempt from personal appearance before a [1][*nyaya panchayat*] in any suit. V of 1908

Issue of summons to witnesses.

67. (*1*) A [1][*nyaya panchayat*] may, if it considers the evidence of, or the production of a document by, any person necessary in a suit or case, issue a summons to such person to compel him to attend or to produce or cause the production of such document, and such person shall be bound to comply with the directions contained in the summons. Such summons shall be in the form and served in the manner as hereinbefore provided.

(*2*) A [1][*nyaya panchayat*] may refuse to summon a witness or to enforce a summons already issued against a witness where, in its opinion, the attendance of the witness cannot be procured without an amount of delay, expense or inconvenience which in the circumstances, would be unreasonable.

(*3*) No [1][*nyaya panchayat*] shall enforce the attendance of any person living outside the village to give evidence, or to produce a document, unless such sum of money is deposited with the [1][*nyaya panchayat*] as appears to the [1][*nyaya panchayat*] to be sufficient to defray his reasonable expenses and if in the opinion of the Collector or officer empowered under section 65, as the case may be, the attendance of any such person is not necessary for the proper adjudication of the suit or case, such Collector or officer shall return the summons to the [1][*nyaya panchayat*] with his endorsement accordingly.

(*4*) No [1][*nyaya panchayat*] shall compel any person to give evidence or to disclose any communication which such person cannot be permitted to give or compelled to disclose under the provisions of the [2]Indian Evidence Act, 1872, or under any other law for the time being in force. I of 1872.

Pleaders, etc. excluded from appearance.

68. No pleader, vakil, or mukhtyar, and no advocate or attorney of a High Court, shall be permitted to appear on behalf of any party to any suit or case before a [1][*nyaya panchayat*] [3]* * * *:

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] *See* Central Acts.

[3] The words and figures "or in any inquiry under section 87" were omitted by Bom. 18 of 1939, sec. 28.

Provided that any party to any such suit or case may be permitted, on reasonable cause being shown to the satisfaction of the [1][*nyaya panchayat*] [2]* * * to employ any relation, servant, dependant, or friend who is not and who has not previously been a pleader, vakil, or mukhtyar or an advocate or attorney of a High Court, to appear either conjointly with or in lieu of such party.

When a relation, servant, dependant, or friend appears in lieu of a party, he shall be furnished by such party with a written authority defining the extent to which he is empowered to act.

Decision of suit or case or facts ascertained

69. (*1*) It shall be the duty of a [1][*nyaya panchayat*] to ascertain the facts of a suit or case before it after holding an inquiry in accordance with the provisions of this Act and the rules.

(*2*) Nothing in any enactment relating to evidence or procedure shall in any way affect the powers of a [1][*nyaya panchayat*] to hold such inquiry.

(*3*) After holding such inquiry, a [1][*nyaya panchayat*] may pass such decree or order, with or without prescribed fees subject to the provisions of this Act, as may in its opinion seem just and equitable. [3][Such decree or order shall state the finding and a brief statement of the reasons thereof.]

Decision of the [1][*nyaya panchayat*]

70. The decision of the [1][*nyaya panchayat*] shall be in accordance with the opinion of the members of the [1][*nyaya panchayat*] who are present at the sitting or of the majority of such members. If the members are equally divided, the person presiding shall have a second or casting vote.

Adjournment.

71. The [1][*nyaya panchayat*] may, from time to time, adjourn the hearing of any suit or case:

Provided that such adjournment is, in its opinion, unavoidable or necessary to a just and equitable decision of the suit or case.

Disposal of suits and cases in absence of party concerned.

72. (*1*) If the plaintiff or complainant fails to appear, after having been informed of the time and place fixed for the hearing, the [1][*nyaya panchayat*] may hear and decide the suit or case in his absence.

(*2*) The [1][*nyaya panchayat*] may hear and decide a suit or case in the absence of the defendant or the accused, if a summons has been served upon him in the manner hereinbefore prescribed, or if he has been informed of the time and place fixed for hearing:

Provided that no sentence shall be passed by a [1][*nyaya panchayat*] on any accused, unless he has appeared, either in person or by a representative, before the [1][*nyaya panchayat*] and the substance of his statement has been recorded in the prescribed register.

(*3*) If, after the service of summons upon him, an accused fails to appear, either in person or by a representative, the [1][*nyaya panchayat*] may apply to the District Magistrate or to any officer not below the rank of a second class magisgrate authorised by the District Magistrate in this behalf, and such District Magistrate or officer shall compel the accused to appear in person or by his representative before the [1][*nyaya panchayat*] as if he were a court trying the case.

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[1] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[2] The words "or the District Judge or Collector" were omitted by Bom. 18 of 1939, s. 28.
[3] These words were inserted, *ibid.*, sec. 29.

(*4*) Where an accused person has, under sub-section (*3*), been compelled to appear before the [1][*nyaya panchayat*], the [1][*nyaya panchayat*] shall forthwith take his statement, and thereafter his attendance at the hearing of the case shall not be compulsory.

Compromise of suits and compounding of cases.

[2][**73.** (*1*) Where it is proved to its satisfaction that a suit has been adjusted wholly or in part by oath or by any lawful agreement, compromise or satisfaction, the [1][*nyaya panchayat*] shall order such agreement, compromise or satisfaction to be recorded and shall pass a decree in accordance therewith so far as it relates to the suit.

(*2*) A [1][*nyaya panchayat*] may permit any case to be compounded :

Provided that when a [1][*nyaya panchayat*] does not pass a decree in accordance with the agreement, compromise or satisfaction under sub-section (*1*) or does not permit a case to be compounded under sub-section (*2*), it shall record its reasons in writing.]

Death of parties.

74. When any party to a suit dies before a decree has been passed, the suit shall abate, but a fresh suit may be brought on the same cause of action, and the period during which the suit was pending shall be excluded in computing the period of limitation prescribed under section 53 for the fresh suit.

[1][*Nyaya panchayat*] not to revise or alter its decision.

75. (*1*) Except as provided in sub-section (*2*), a [1][*nyaya panchayat*] shall not have power to cancel, revise or alter any decree or order passed by it.

(*2*) On application made within one month from the date of the decree or order of a [1][*nyaya panchayat*], the [1][*nyaya panchayat*] may, for reasons to be recorded in writing, restore any suit which has been dismissed for default or in which an *ex parte* decree has been passed against the defendant.

Interest and instalments.

76. In suits for money, a [1][*nyaya panchayat*] may, in its discretion, direct payment of interest on the sum decreed, at a rate not exceeding six per cent. per annum, from the date of the decree until the date of payment and of any fees which may be prescribed.

When a [1][*nyaya panchayat*] decrees the payment of a sum of money in a suit it may direct that it be paid by instalments, without interest, or with interest not exceeding the above rate.

Reference by [1][*nyaya panchayat*] to District Court or District Magistrate.

77. (*1*) When any [1][*nyaya panchayat*] is of opinion that any suit or cause before it is of such a nature, or of such intricacy or importance that it ought to be tried by a court [3][or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] it shall stay proceedings and refer the suit to [4][the District Court] or the case to [5][the District Magistrate] for [6]* orders.

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[1] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] Section 73 was substituted for the original by Bom. 18 of 1939, s. 30.

[3] These words were inserted by Bom. 60 of 1947, s. 19.

[4] These words were substituted for the words "the District Judge or any officer not below the rank of Subordinate Judge who may be authorised by the District Judge in that behalf" by Bom. 18 of 1939, s. 31 (*1*) (*a*).

[5] These words were substituted for the words "the Collector or any officer below the rank of Mamlatdar who may be authorised by the Collector in this behalf", *ibid.*, s. 31 (*1*) (*b*).

[6] The word "his" was deleted, *ibid.*, s. 31 (*1*) (*c*).

(*2*) If [1][the District Court or District Magistrate, as the case may be], is of the opinion that the suit or case is of such nature, intricacy or importance that it ought not to be tried by the [2][*nyaya panchayat*] [3][or that the accused in a case ought to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] [4][such court or Magistrate] shall pass orders directing the plaintiff or complainant to the civil or criminal court, as the case may be, competent to take cognizance of such suit or case.

(*3*) If [1][the District Court or District Magistrate, as the case may be], is of opinion that the suit or case is not of such nature, intricacy or importance that it ought to be tried by a Court, [3][or that the accused in a case ought not to receive a punishment different in kind from, or more severe than, that which such *nyaya panchayat* is empowered to inflict] [4][such Court or Magistrate] shall return the suit or case to the [2][*nyaya panchayat*], which made the reference, for disposal.

Appeals.

[5][**78.** (*1*) An appeal shall lie to the District Court against a decree passed by a [2][*nyaya panchayat*] in any suit and to the District Magistrate against an order in any case.

(*2*) The period for filing such appeals shall be thirty days from the date of the decree or order, as the case may be.]

Finality of decrees and orders.

[6][**79.** Every order passed under section 77, 78, 87, or 87A by a District Court or by a District Magistrate shall be final and shall not be subject to any appeal, revision or review.]

CHAPTER VIII.

EXECUTION.

Satisfaction or adjustment of decree to be recorded.

80. If, on the application of a decree-holder or judgment-debtor, the [2][*nyaya panchayat*], after enquiry, finds that the decree has been satisfied or adjusted, wholly or in part, the [2][*nyaya panchayat*] shall record the fact in the prescribed register.

Execution through Collector.

81. (*1*) If, after a period of one month from the date of a decree, the decree remains unsatisfied or unadjusted, in whole or in part, the decree-holder may, within one year of the date of the decree, apply to the [2][*nyaya panchayat*] for execution.

(*2*) On such application for execution, the [2][*nyaya panchayat*] shall certify to the Collector that the decree remains unsatisfied or unadjusted, in whole or in part and on receipt of such certification the Collector shall, provided that the [2][*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution,—

(*a*) if the decree is for money, proceed to recover it as if it were an arrear of land revenue ; or

(*b*) if the decree is for any specific moveable property, cause the decree to be executed as if it were a decree of a civil court, and in so acting may exercise all the powers of a civil court.

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[1] These words were substituted for the original Bom. 18 of 1939, s. 31 (*2*).
[2] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[3] These words were inserted, *ibid.*, s. 19.
[4] These words were substituted for the word "he" by Bom. 18 of 1939, s. 31 (*2*).
[5] Section 78 was substituted for the original., *ibid*, s. 32.
[6] Section 79 was substituted for the original, *ibid.*, s. 33.

Execution of instalment decree through Collector.

82. (*1*) If, after a period of one month from the date fixed for the payment of any instalment of a sum of money decreed by a [1][*nyaya panchayat*] under section 76 an instalment or any portion thereof remains unpaid, the decree-holder may, within one year of the date when it fell due, apply for execution to the [1][*nyaya panchayat*].

(*2*) On such application for execution, the [1][*nyaya panchayat*] shall certify to the Collector that the instalment or a portion thereof still remains unpaid, and on receipt of such certification the Collector shall, provided the [1][*nyaya panchayat*] shall have certified to the Collector within one year from the date of the application for execution, proceed to recover the amount of the instalment so remaining unpaid as if it were an arrear of land revenue.

Satisfaction of decree or instalment after certificate.

83. If, after the issue of the certificate to the Collector under section 81 or 82, but before the decree has been executed through the Collector, the decree or the instalment is fully satisfied and satisfaction is recorded under section 80, the [1][*nyaya panchayat*] shall forthwith certify such satisfaction to the Collector who shall thereupon stay the execution proceedings. All sums of money realised by execution through the Collector shall, after satisfaction of the decree, be refunded to the judgment-debtor.

Fine and compensation when payable.

84. (*1*) Every sum ordered to be paid as compensation and every fine imposed under sections 45, 46, 47 and 48 by a [1][*nyaya panchayat*] shall be payable at once:

Provided that the [1][*nyaya panchayat*] may allow any person ordered by it to pay compensation or fine to pay the same within such time, not exceeding fifteen days, as it may think proper and on such terms as to security as it shall seem to the [1][*nyaya panchayat*] necessary to impose.

Mode of recovery.

(*2*) If the amount of fine or compensation remains unpaid for fifteen days from the date of the order, the [1][*nyaya panchayat*] shall recover the same by distraint and sale of the defaulter's moveable property.

(*3*) If the amount of fine or compensation is not fully recovered, the [1][*nyaya panchayat*] shall certify accordingly to the Collector, and on receipt of such certification the Collector shall, provided the panchayat shall have certified to the Collector within a period of one year from the date when the amount became recoverable by the [1][*nyaya panchayat*] under sub-section (*2*), proceed to recover it as if it were an arrear of land revenue and shall remit the amount so recovered to the [1][*nyaya panchayat*].

Fine or compensation, when realised, to be recorded.

85. As soon as the amount of fine or compensation referred to in section 84 is realised by the [1][*nyaya panchayat*] whether directly or through the Collector, the amount so realised shall be entered in the prescribed register [2]* * *.

Payment of compensation out of village fund.

86. Any money which has been ordered by the [1][*nyaya panchayat*], under section 47 or section 48, to be paid as expenses or compensation, shall be paid by it out of the amount realised under sections 45 and 46. [3]* * * *

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[1] These words were substituted for the words "village bench" and "bench" by Bom. 60 of 1947, s. 25.

[2] The words "and shall be credited by the village bench to the village fund" were omitted by the Adaptation of Indian Laws Order in Council.

[3] The words "and the payment so made shall be debited to the village fund" were omitted, *ibid*.

87. (*1*) The [1][District Court] in any suit and the [2][District Magistrate] in any case may, at any time, either [3][on the application of an aggrieved party or otherwise] or on a reference made by a [4][*nyaya panchayat*] under section 77 by order in writing, [5]* * * quash any proceedings of a [4][*nyaya panchayat*] at any stage, or cancel any decree or order passed by a [4][*nyaya panchayat*]. District Court or District Magistrate may quash proceedings.

(*2*) When an order has been passed by the [6][District Court] under sub-section (*1*) in respect of any suit, the plaintiff may institute a fresh suit for the same relief in a civil court, and the period from the date of the institution of the suit before the [4][*nyaya panchayat*] to the date of such order shall be excluded in computing the period of limitation for the fresh suit.

(*3*) Where an order has been passed by the [7][District Magistrate] under sub-section (*1*) in respect of any case, proceedings in respect of the same offence may be instituted in the court of a magistrate having jurisdiction.

[8][**87A.** (*1*) The District Court in any suit and the District Magistrate in any case may at any time on the application of an aggrieved party or otherwise by order in writing transfer any suit or case, as the case may be, to a civil or criminal court competent to try the same. Transfer of suit or case by the District Court or District Magistrate.

(*2*) On the transfer of such suit or case, the court to which it is transferred shall hear such suit or case anew as if such suit or case was instituted before it.]

[8][**87B.** Subject to the provisions of this Act in regard to all proceedings under this Act, District Courts and District Magistrates shall have the same powers and shall follow the same procedure as they respectively have and follow in regard to proceedings in connection with decrees or orders of courts subordinate to them in their ordinary jurisdiction.] Procedure in proceedings before District Court and District Magistrate.

88. No person shall be arrested or imprisoned in execution of a decree under the provisions of this Act. Bar to arrest and imprisonment in execution of decree.

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[9]CHAPTER VIII-A.

Abolition of [4][*Nyaya Panchayats*] *in Greater Bombay.*

88A. Notwithstanding anything contained in this Act, the provisions of sections 37 and 57 shall not apply to the panchayat of any village situated in Greater Bombay. Abolition of [4][*nyaya panchayats*] in Greater Bombay.

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[1] These words were substituted for the words "District Judge" by Bom. 18 of 1939, s. 34 (*1*).
[2] These words were substituted for the word "Collector", *ibid.*
[3] These words were substituted for the words "of his own motion or on the application of an aggrieved party", *ibid.*
[4] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.
[5] The words "cancel the jurisdiction of a village bench or" were deleted, *ibid.*
[6] These words were substituted for the words "District Judge", by Bom. 18 of 1939, s. 34 (*2*).
[7] These words were substituted for the word "Collector", *ibid.*, s. 34 (*3*).
[8] Sections 87A and 87B were inserted, *ibid.*, s. 35.
[9] Chapter VIII-A was inserted by Bom. 24 of 1946, s. 2.

Pending proceedings.

88B. (*1*) A [1][*nyaya panchayat*] constituted before the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, in respect of a village situated in Greater Bombay and exercising judicial powers conferred upon it under the Act shall stand dissolved on the said date. Bom. XXIV of 1946.

(*2*) On the dissolution of the [1][*nyaya panchayat*] under sub-section (*1*), the provisions of clauses (*i*) and (*ii*) of sub-section (*2*) of section 106 shall apply with the modification that the reference in clause (*ii*) to the Court of the Civil Judge or Magistrate shall be deemed to be a reference to the relevant civil court or Magistrate in Greater Bombay.

Appeals.

88C. An appeal against a decree or order passed by such [1][*nyaya panchayat*] before its dissolution under sub-section (*1*) of section 88B shall within thirty days from the date of the decree or order, as the case may be, lie to such authority as the Provincial Government may direct. Every order passed in appeal shall be final and shall not be subject to any appeal, revision or review:

Provided that any such appeal pending on the date of the coming into force of the Bombay Village Panchayats (Amendment) Act, 1946, shall be disposed of as if the said Act had not been passed. Bom. XXIV of 1946.

CHAPTER IX.

TAXATION AND RECOVERY OF CLAIMS.

Levy of taxes and fees by panchayat.

89. [2][(*1*) Every panchayat shall levy a tax upon the owners or occupiers of houses including farm buildings whether or not subject to payment of agricultural assessment, and of lands which are not subject to payment of agricultural assessment, within the limits of the village, in such manner, at such rates and subject to such exemptions as may be prescribed..

(*1A*) Where an owner of a house or land has left the village or cannot otherwise be found, any person to whom such house or land has been transferred shall be liable for the tax leviable under sub-section (*1*) from such owner.

(*1B*) The rules made for the levy of the tax specified in sub-section (*1*) may provide that the payment of such tax may be made either in cash or by rendering of work and labour];

[3][(*2*) It shall be competent to a panchayat to levy all or any of the following taxes or fees at such rates and in such mnner [4][and subject to such exemptions] as may be prescribed, namely :—]

[5]* * * * *

(*ii*) a pilgrim tax;

(*iii*) a tax on [6][fairs, festivals and entertainments];

(*iv*) a tax on sales of goods;

(*v*) octroi;

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[1] These words were substituted for "village bench" and "bench" by Bom. 60 of 1947, s. 25.

[2] Sub-sections (*1*), (*1A*) and (*1B*) were inserted, *ibid*, s. 20.

[3] These words, figures and brackets were substituted for the words, figures and brackets "(*2*) Taxes or fees which are leviable by a panchayat under sub-section (*1*) are:—" by Bom. 18 of 1939, s. 36 (*b*) (*i*).

[4] These words were inserted by Bom. 2 of 1945, s. 5 (*ii*), read with Bom. 60 of 1947, s. 2.

[5] Sub-clause (*i*) was deleted by Bom. 18 of 1939, s. 36 (*b*) (*ii*).

[6] These words were substituted for "fairs and festivals" by Bom. 60 of 1947, s. 20.

(*vi*) a tax on marriages, adoptions and feasts;

[1][(*via*) a tax on shops and hotels;

(*vib*) a tax on premises where machinery is run by steam, oil or electric power for any purpose other than a domestic or agricultural purpose];

Bom. XXXIV of 1935.

[2][(*vii*) any other tax (not being a toll on motor vehicles or trailers, save as provided by section 14 of the Bombay Motor Vehicles Tax Act, 1935) which the Provincial Legislature has, under the Government of India Act, 1935, power to impose in the Province and which has been approved by the district local board and sanctioned by the Provincial Government.]

[3][(*2A*) Notwithstanding anything contained in sub-section (*2*), every panchayat shall levy any one of the taxes specified in sub-section (*2*) as may be prescribed in regard to the panchayat].

(*3*) Any person aggrieved by the assessment, levy or imposition of any such tax or fee may appeal to the [4][standing committee of the district local board]. The decision of the [4][standing committee of the district local board] in the matter shall be final.

(*4*) [5][The Provincial Government] may suspend the levy or imposition of any tax or fee [6]* * * and may at any time rescind such suspension.

[7][(*5*) Until provision to the contrary is made by the Central Legislature, a panchayat which, immediately before the commencement of Part III of the Government of India Act, 1935, was lawfully levying under this section, as then in force, any tax other than the taxes mentioned in sub-section (*2*) may continue to levy that tax].

Power of district local board to increase taxation of panchayat.

90. (*1*) If in the opinion of the district local board the regular income of a panchayat falls below what is necessary for the proper discharge of the duties specified in sections 26 and 28, the district local board may require the panchayat to take steps, within six months, to increase its income to such extent as the district local board considers necessary. If the panchayat fails to take adequate steps to increase its income to the required extent, the district local board may required it to levy or increase any of the taxes or fees specified in section 89:

Provided that the district local board shall not compel the panchayat to levy or increase any tax or fee beyond the maximum rate to be prescribed in this behalf.

(*2*) Any panchayat may appeal to the Commissioner against an order made under sub-section (*1*) and the Commissioner may stay the execution of such order until he has decided the appeal.

Recovery of taxes and other dues.

91. (*1*) When any tax or fee has become due, a panchayat shal with the least practicable delay, cause to be presented to the person liable for the payment thereof a bill for the amount due from him, specifying the date on or be re which the amount shall be paid.

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[1] Clauses (*via*) and (*vib*), were inserted, by Bom. 60 of 1947 s. 20.
[2] Clause (*vii*) was substituted for the original by the Adaptation of Indian Laws Order in Council.
[3] This sub-section was inserted by Bom. 60 of 1947, s. 20.
[4] These words were substituted for "district local board", *ibid.*
[5] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.
[6] The words, brackets and figures "referred to in sub-section (*1*)" were deleted by Bom. 18 of 1939, s. 36 (*c*).
[7] Sub-section (*5*) was inserted by the Adaptation of Indian Laws Order in Council.

(2) If any person fails to pay any tax or any other sum due from him to a panchayat under this Act or the rules or by-laws on or before the specified date of payment, the panchayat shall cause a writ of demand [1][in the prescribed form] to be served on the defaulter.

[2][(2A) The presentation of every bill under sub-section (1) and the service of every writ of demand under sub-section (2) shall be effected by an officer or servant of the panchayat or other person authorised by the panchayat in this behalf—

(a) by giving or tendering the bill or writ to the person to whom it is addressed ; or

(b) if such person is not found, by leaving the bill or writ at his last known place of abode, if within the limits of the village, or by giving or tendering the bill or writ to some adult male member or servant of his family ; or

(c) if such person does not reside within the limits of the village, and his address elsewhere is known to the sarpanch or other person directing the issue of the bill or writ, then by forwarding the bill or writ to such person by registered post, under cover bearing the said address ; or

(d) if none of the means aforesaid be available, then by causing the bill or writ to be affixed on some conspicuous part of the building or land, if any, to which the bill or writ relates.]

(3) If the sum for which a writ of demand has been served is not paid within thirty days from the date of such service, the panchayat may levy such sum by distraint and sale of the moveable property of the defaulter [3][in the prescribed manner].

[4][(4) Fees for—

(a) every distress made under sub-section (3),

(b) every writ of demand issued under sub-section (2), and

(c) the costs of maintaining any livestock seized under sub-section (3),

shall be chargeable at such rates as may be prescribed.

(4A) Notwithstanding anything contained in the foregoing sub-sections, any tax or fee payable on demand in accordance with the rules shall be recoverable in such manner as may be prescribed.]

(5) If a panchayat is unable to recover a tax or other sum due to it as aforesaid, it may furnish to the mamlatdar or mahalkari a statement of the arrears due, with a request for the recovery of the same through the village officers, and on receipt of such statement of arrears, the [5][mamlatdar or mahalkari shall], provided such statement of arrears shall have been furnished by the panchayat to the mamlatdar or mahalkari within one year from the date specified in the bill presented under sub-section (1), proceed to recover the same as an arrear of land revenue through the village officers. For the recovery of such sums, the village officers shall be remunerated by the panchayat in such manner as may be prescribed [6]* * *.

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[1] These words were inserted by Bom. 18 of 1939, s. 37 (1).

[2] Sub-section (2A) was inserted by Bom. 2 of 1945, s. 6, read with Bom. 60 of 1947, s. 2.

[3] These words were inserted by Bom. 18 of 1939, s. 37 (2).

[4] Sub-sections (4) and (4A) were substituted for sub-section (4), *ibid*, s. 37 (3).

[5] These words were substituted for the words " mamlatdar or mahalkari may ", *ibid.*, s. 37 (4).

The words " by by-laws " were omitted by Bom. 24 of 1936, s. 2, Sch.

(*6*) If a panchayat fails to recover any tax, fine or other sum due to it, or neglects to take action under sub-sections (*2*) and (*3*) of section 84 or (*2*) and (*3*) of this section, the district local board may apply to the Collector to recover the same as an arrear of land revenue :

Provided that no such application shall be made to the Collector after the expiry of [1][two years] from the date when the amount became certifiable under sub-section (*3*) of section 84 or from the date specified in the bill presented under sub-section (*1*) of this section, as the case may be.

On receipt of such application from the district local board, the [2][Collector shall] after holding such enquiry as he thinks fit, proceed to recover the sum as an arrear of land revenue [3][unless such sum is not under section 92 directed to be written off.]

Collector's power to direct irrecoverable sums to be written off.

92. The Collector may direct—

(*a*) any sum certified by a panchayat and recoverable by him under sections 81, 82 and 84 and sub-section (*6*) of section 91 :

(*b*) any arrear of a tax or any other sum due to a panchayat and recoverable through a mamlatdar or mahalkari under sub-section (*5*) of section 91 ;

to be written off, if in the opinion of the Collector, such sum or arrears are irrecoverable.

CHAPTER X.

Financial Assistance to Panchayats.

Contribution by Provincial Government.

[4][**92A.** The Provincial Government shall make every year a grant to every panchayat levying the taxes under sub-sections (*1*) and (*2A*) of section 89 equivalent in amount to fifteen per cent. of the ordinary land revenue or twenty five per cent. of the local fund cess, realised in [5][the previous year] within the limits of the village, whichever is greater.]

Loan by district local board.

Bom. VI of 1923.

[6][**93.** Notwithstanding anything contained in the Bombay Local Boards Act, 1923, the district local board may, subject to rules, grant a loan to a panchayat within the district for the purposes of this Act.]

CHAPTER XI.

Control.

Power to call for proceedings, etc.

94. (*1*) The Collector or the district local board shall have power—

(*a*) to call for any extract from the proceedings of a panchayat, any book or document in the possession or under the control of a panchayat, and any return, statement, account or report which the Collector or the district local board may think fit to require such panchayat to furnish ; and

[1] These words were substituted for the words "one year" by Bom. 18 of 1939, s. 37 (*5*) (*a*).
[2] These words were substituted for the words "Collector may", *ibid.*, s. 37 (*5*) (*b*).
[3] These words and figures were inserted, *ibid.*, s. 37 (*5*) (*c*).
[4] This section was inserted by Bom. 60 of 1947, s. 21.
[5] These words were substituted for the words "that year" by Bom. 4 of 1949, s. 5.
[6] This section was substituted for the original by Bom. 60 of 1947, s. 22.

(*b*) to require a panchayat to take into consideration—

(*i*) any objection which appears to the Collector or the district local board to exist to the doing of anything which is about to be done or is being done by such panchayat, or

(*ii*) any information which the Collector or the district local board is able to furnish, and which appears to the Collector or the district local board to necessitate the doing of a certain thing by the panchayat,

and to make a written reply to the Collector or the district local board, as the case may be, within a reasonable time, stating its reasons for not desisting from doing or for not doing such things.

(*2*) All or any of the powers given to the district local board under sub-section (*1*) may be delegated by it to its president, vice-president, chief officer, public health officer or executive engineer.

Delegation of duties, appointment of officers, utilisation of honorary agencies for encouraging the establishment and fostering the growth of panchayats.

95. (*1*) The district local board may delegate to the President, Vice-President, the Chief Officer, ublic Health Officer or any other officer specially appointed by the district local board in this behalf the duties of encouraging the establishment and fostering the growth of panchayats and of assisting panchayats in the proper exercise of their powers and performance of their duties under this Act.

(*2*) It shall be competent to the district local board to accept and utilise in an honorary capacity in the performance of any of the duties which may be delegated under sub-section (*1*) the services of any person who in the opinion of such Board is specially fitted to assist in this behalf.

(*3*) It shall be competent to [1][the Provincial Government] to appoint an officer to exercise such of the powers and perform such of the duties of a Collector [2][and if the district local board has been superseded the duties of a district local board] under this Act as [1][the Provincial Government] may prescribe. Such officer shall also perform such other duties and exercise such other powers as [1][the Provincial Government] may prescribe for the purpose of encouraging the establishment and fostering the growth of panchayats and [3][*nyaya panchayats*] and of assisting and advising panchayats and [3][*nyaya panchayats*] in the proper exercise of their powers and performance of their duties under this Act.

Power of entry.

96. The district local board may authorise its president, vice-president, or any of its officers to enter on and inspect, or cause to be entered on and inspected, any immovable property occupied by any panchayat or any work in progress under its direction.

Audit of accounts.

97. The audit of the accounts of a panchayat shall, unless provision is otherwise made by [1][the Provincial Government] in that behalf, be carried out each year by the district local board, and such board shall, within one month of the completion of the audit, forward a copy of the audit note to the collector.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were inserted by Bom. 18 of 1939, s. 39.

[3] These words were substituted for the original by Bom. 60 of 1947, s. 25.

98. (*1*) If, in the opinion of the Collector or the district local board, the number of persons maintained or proposed to be maintained by a panchayat as officers or servants, or the remuneration given or proposed to be given by the panchayat to such persons is excessive, the panchayat shall, on the requirement of the Collector or the district local board, as the case may be, reduce such number or remuneration. Reduction of establishment.

(*2*) If there is a difference between the requirement of the Collector or of the district local board under sub-section (*1*), the panchayat shall refer the matter in difference to the Commissioner whose decision shall be final.

(*3*) The panchayat may appeal to the Commissioner against any requirement made under sub-section (*1*), and the decision of the Commissioner in the matter shall be final.

99. (*1*) If, in the opinion of the Collector, the execution of any order or resolution of a panchayat, or the doing of anything which is about to be done or is being done by or on behalf of a panchayat, is causing or is likely to cause injury or annoyance to the public, or to lead to a breach of the peace, he may, by order in writing, suspend the execution or prohibit the doing thereof. Suspension of execution of order.

(*2*) When the Collector makes an order under sub-section (*1*) he shall forthwith send to the panchayat affected thereby a copy of the order, with a statement of the reasons for making it.

(*3*) The Collector shall forthwith submit to the Commissioner a report of every case occurring under this section, and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the Collector could have made.

100. (*1*) In cases of emergency the Collector may provide for the execution of any work or the doing of any act which a panchayat is empowered to execute or do, and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing the work or doing the act shall be forthwith paid by the panchayat. Execution of work in case of emergency

(*2*) If the expense is not so paid, the Collector may direct the officer in charge of the treasury in which the village fund is kept to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

(*3*) The Collector shall forthwith report to the Commissioner every case in which he exercises the powers under sub-section (*1*).

101. (*1*) If at any time it appears to the district local board that a panchayat has made default in the performance of any duty specified in section 26, it may order the duty to be performed within a specified period, and, if the duty is not performed within the period specified, the district local board may appoint some person to perform it, and direct that the expense of performance shall be paid by the defaulting panchayat, within such period as the district local board may fix. Default in performance of duty.

(*2*) If the expense is not so paid, the district local board may direct the person in custody of the village fund to pay such expense, or so much thereof as is possible, from the balance of such fund in his hands.

[1](*2A*) If at any time it appears to the Provincial Government or any officer authorised by the Provincial Government in this behalf that a panchayat has made default in the performance of any duty specified in section 26 and that the district local board has failed or neglected to take action under sub-section (*1*), the Provincial Government or the officer authorised, as the case may be, may take such action as could have been taken by the district local board under sub-sections (*1*) and (*2*).]

(*3*) The district local board [2][or the officer authorised, as the case may be,] shall forthwith report to the Commissioner every case occurring under this section and the Commissioner may revise or modify any order made therein and make in respect thereof any other order which the district local board could have made.

Dissolution or supersession of panchayat for default.

102. (*1*) If, in the opinion of [3][the Provincial Government], a panchayat exceeds or abuses its powers, or makes persistent default in the performance of the duties imposed on it under section 26 or any other law for the time being in force, [4][or fails to levy a tax under sub-section (*1*) or sub-section (*2A*) of section 89], [5][or persistently disobeys any of the orders of the Collector or Commissioner under section 99], [3][the Provincial Government] may, after consultation with the district local board by an order in the [6][*Official Gazette*]—

(*i*) dissolve such panchayat, or

(*ii*) supersede such panchayat for the period specified in the order.

(*2*) When a panchayat is dissolved or superseded, all members of the panchayat shall, from the date specified in the order, vacate their offices as such members.

(*3*) When a panchayat is dissolved, it shall be reconstituted in the manner provided in this Act.

(*4*) If a panchayat is superseded—

(*a*) all the powers and duties of the panchayat shall, during the period of supersession, be exercised and performed by such person or persons as [3][the Provincial Government] may, from time to time, appoint in that behalf; and

(*b*) all property vested in the panchayat shall during the period of supersession, vest in [3][the Provincial Government]; and

(*c*) on the expiry of the period of supersession, the panchayat shall be reconstituted in the manner provided in this Act, and the persons vacating office shall be eligible for re-election or re-nomination.

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[1] Sub-section (*2A*) was inserted by Bom 18 of 1939, s. 40 (*1*).

[2] These words were inserted, *ibid.*, s. 40 (*2*).

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] This portion was inserted by Bom. 60 of 1947, s. 23.

[5] These words were inserted by Bom. 18 of 1939, s. 41.

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

103. (*1*) When, during the term of the panchayat the limits of a village are altered, the [1][Collector] may, by order in writing dissolve such panchayat and direct a panchayat— Dissolution and reconstitution of panchayat on alteration of limits of village.

(*i*) to be reconstituted for the village of which the panchayat has been dissolved or

(*ii*) to be established for a village which has been newly declared.

The members of the panchayat which has been dissolved shall vacate their office from the date specified in the order.

(*2*) The panchayat reconstituted or established under the provisions of sub-section (*1*) shall consist of such members, either elected, [2]* or appointed in such manner as the [1][Collector] shall, by order in writing, direct.

The sarpanch and deputy sarpanch of the panchayat so reconstituted or established shall be elected in the manner provided in this Act.

(*3*) The term of the panchayat so reconstituted or established shall be for such period, not exceeding one year, as the [1][Collector] shall, by order in writing, specify.

(*4*) On the expiry of the term of the panchayat in accordance with the provisions of sub-section (*3*), the panchayat shall be constituted in the manner provided by this Act.

104. (*1*) When a panchayat has been dissolved and reconstituted or established under section 103, so much of the village fund and other property vesting in the panchayat which has been dissolved shall vest in, and such portion of the debts and obligations shall be transferred to, the reconstituted or established panchayat, as the Commissioner may, by order in writing, direct. Vesting of property, etc., of panchayat which has been dissolved in reconstituted or established panchayat.

(*2*) The rights and liabilities of the panchayat which has been dissolved in respect of contracts, agreements and other matters or things arising in or relating to any part of the area subject to the authority of the reconstituted or established panchayat shall vest in such panchayat.

(*3*) Any notice, tax, order, licence, permission, rule or by-law made, issued or imposed in respect of any part of the area subject to the authority of the reconstituted or established panchayat shall be deemed to have been made, issued or imposed by or in respect of such panchayat, unless and until it is superseded by any notice, tax, order, licence, permission, rule or by-law made, issued or imposed by or in respect of such panchayat.

[3][**104A**. Where by a notification under section 4 any local area forming part of a village is excluded from such village and such area is not included in or declared to be a village, so much of the village fund and other property vesting in the panchayat of the village of which such area formed part, as the Commissioner may by order in writing direct, shall vest in the district local board to be utilised for the benefit of the area as the district local board may think fit. Effect of area being excluded from village.

[1] The word "Collector" was substituted for the word "Commissioner" by Bom. 18 of 1939, s. 42.

[2] The word "nominated" was deleted, *ibid.*, s. 42.

[3] Section 104A was inserted *ibid.*, s. 43.

Effect of area ceasing to be a village.

105. On any area ceasing to be a village, by virtue of any notification under section 4,—

(*a*) the panchayat shall be dissolved and all members of the panchayat shall vacate office as from the date of the notification;

(*b*) the unexpended balance of the village fund and the property vesting in the panchayat shall vest in the district local board, to be utilised for the benefit of the inhabitants of the area as the district local board may think fit.

Effect of dissolution or supersession of panchayats or of withdrawal of judicial powers of [1][*nyaya panchayats*] on [1][*naya panchayats* and proceedings pending before them.

106. (*1*) When a panchayat is dissolved or superseded under section 102, 103 or 105, the [1][*nyaya panchayat*] constituted in the village for which the panchayat was established [2][or where all the judicial powers of a [1][*nyaya panchayat*] have been withdrawn under the proviso to sub-section (*2*) of section 37 such [1][*nyaya panchayat*]] shall be deemed to have been dissolved and all members of the [1][*nyaya panchayat*] shall vacate office as from the date of dissolution or supersession [3][or the withdrawal of judicial powers] as the case may be.

(*2*) On the dissolution of the [1][*nyaya panchayat*] under sub-section (*1*)—

(*i*) the provisions of sub-sections (*2*) and (*3*) of section 87 shall be deemed to apply in respect of any suits or cases pending before the [1][*nyaya panchayat*] as if [4][the District Court or District Magistrate], as the case may be, had passed an order under sub-section (*1*) of section 87 quashing such suits or cases; and

(*ii*) all pending proceedings and applications for the execution of decrees or orders in suits, and for the recovery of fines and compensation in cases shall be transferred to the Court of the Subordinate Judge or the Magistrate, as the case may be, who would have had jurisdiction to try the suit or case if the [1][*nyaya panchayat*] had not been constituted and such. Subordinate Judge or Magistrate, as the case may be, shall deal with the proceedings or applications as if the suit or case out of which the proceedings or applications arose, had been heard and decided by such Subordinate Judge or Magistrate.

[5][(*3*) If any local area is excluded from a village and no panchayat is constituted for the area so excluded the provisions of sub-section (*2*) shall, so far as may be, apply in respect of any suits, cases, proceedings or applications which may be pending before the [1][*nyaya panchayat*] in respect of the said area, as if so far as such suits, cases, proceedings and applications are concerned, the [1][*nyaya panchayat*] had been dissolved.]

Authority of Provincial Government.

[6][**107.** (*1*)] In all matters connected with this Act, [7][the Provincial Government] shall have and exercise the same authority and control over the district local boards as it has and exercises over them under the Bombay Local Boards Act, 1923. Bom. VI of 1923.

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[1] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[2] These words, figures and brackets were inserted, by Bom. 18 of 1939, s. 44 (*1*) (*a*).

[3] These words were inserted, *ibid.*, s. 44 (*1*) (*b*).

[4] These words were substituted for the words "the District Judge or the Collector", *ibid.*, 44 (*2*).

[5] Sub-section (*3*) was inserted, *ibid.*, s. 44 (*3*).

[6] Section 107 was renumbered as section 107 (*1*), *ibid.*, s. 45.

[7] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[1][(2) In all matters connected with this Act, the Provincial Government and the Commissioners and Collectors shall have and exercise the same authority and control over the Commissioners, the Collectors and their subordinates, respectively, as they have and exercise over them in the general and revenue administration.]

[2][**107A.** The Provincial Government may call for and examine the record of proceedings of any officer (except the proceedings of the District Court or the District Magistrate in judicial proceedings in appeal, revision or reference from the proceedings of a [3][*nyaya panchayat*] for the purpose of satisfying itself as to the legality or propriety of any order passed and may revise or modify the order as shall seem fit.] Provincial Government may call for proceedings.

CHAPTER XII

RULES AND BY-LAWS.

108. (*1*) [4][The Provincial Government] may, by notification in the [5][*Official Gazette*], make rules— Rules.

(*a*) under section 4, regulating the manner in which the [6][Collector] may hold an inquiry;

(*b*) under section 6, [7][prescribing the number of seats to be reserved for the representatives of women, Muhammadans, Harijans or backward tribes in each village panchayat;]

(*c*) under section 7, prescribing the manner in which the election of members shall be held;

(*d*) under section 23, regulating the manner in which notice of a vacancy in the office of a sarpanch, deputy sarpanch or members of a panchayat shall be given;

[8][(*d*1) under section 26A, prescribing the persons in the village from whom and the manner in which the costs of watch and ward under clause (*s*) of sub-section (*1*) of section 26A shall be levied and recovered;]

(*e*) under section 32, prescribing the custody in which all funds received by and all sums accruing to a panchayat shall be kept;

[9][(*e*1) under section 33, prescribing the [10][qualifications], 'powers, duties, remuneration and conditions of service [11][(including disciplinary matters)] of the Secretary of the panchayat];

(*f*) under section 36, prescribing the date of submission and form of annual budgets, returns and accounts and the manner in, and the time at, which the meeting of the residents of the village shall be convened;

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[1] Sub-section (*2*) was inserted by Bom. 18 of 1939, s. 45.

[2] Section 107A was inserted, *ibid.*, s. 46.

[3] These words were substituted for the words "village bench" and "bench by Bom. 60 of 1947 s. 25.

[4] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[6] The word "Collector" was substituted for the word "Commissioner" by Bom. 18 of 1939, s. 47 (*a*).

[7] These words were substituted for the words "regulating the manner in which the Collector shall nominate the holder or his representative", *ibid.*, s. 47 (*b*).

[8] This clause was inserted by Bom. 60 of 1947, s. 24.

[9] Clause (*e*1) was inserted by Bom. 18 of 1939, s. 47(*bb*).

[10] This word was inserted by Bom. 60 of 1947, s. 24.

[11] These words and brackets were inserted, *ibid.*

[1][(*g*) under section 37, prescribing the manner in which the members constituting a [2][*nyaya panchayat*] shall be elected, and regulating any of the matters specified in sub-section (*6*) of the said section;

(*gg*) under section 37B, prescribing the other duties which the Secretary of a panchayat acting as the Judicial Clerk of that panchayat shall do;]

(*h*) under section 59, prescribing the fees payable on the institution of suits and cases;

(*i*) under sections 60, 72, 80 and 85 prescribing the particulars to be entered in registers for suits and cases;

(*j*) under section 62, prescribing the form of summons;

[3]* * * * * * *

(*l*) under section 76, prescribing the scale of fees which a [2][*nyaya panchayat*] may direct to be paid in a suit or case;

(*m*) under section 89, prescribing the rate and the manner in which [4][and the exemptions subject to which] taxes and fees specified in the section shall be leviable;

[5][(*m*1) under sub-section (*2A*) of section 89, prescribing for each panchayat any one of the taxes specified in sub-section (*2*)];

(*n*) under section 90, prescribing the maximum rate for the levy of taxes or fees specified in section 89;

[6][(*n*1) under sub-section (*2*) of section 91, prescribing the form of the writ to be presented to the defaulter;

(*n*2) under sub-section (*3*) of section 91, prescribing the form of warrant, the method of attachment, auction and sale of the defaulter's moveable property;]

(*o*) [7][under sub-section (*4*) of section 91, prescribing the rates of fees for writs of demand, distress and costs of maintaining any live-stock seized, and] under sub-section (*5*) of section 91, prescribing the remuneration of village officers for the recovery of taxes and other sums due to a panchayat and the manner in which such remuneration shall be paid;

(*p*) under section 93, prescribing the terms on which loans may be granted to a panchayat by the district local board;

(*q*) under section 95, prescribing the powers and duties which may be delegated to or exercised or performed by an officer or person appointed; [8]*

(*r*) under sub-sections (*3*) and (*4*) of section 112, regulating the delegation by [9][the District Court or the District Magistrate] of the powers therein referred to;

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[1] Clauses (*g*) and (*gg*) were substituted for clause (*g*) by Bom. 18 of 1939, s. 47 (*c*).

[2] These words were substituted for "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[3] Clause (*k*) was deleted by Bom. 18 of 1939 s. 47 (*d*).

[4] These words were inserted by Bom. 2 of 1945 s. 7 read with Bom. 60 of 1947 s. 2.

[5] This clause was inserted by Bom. 60 of 1947 s. 24.

[6] Clauses (*n*1) and (*n*2) were inserted by Bom. 18 of 1939, s. 47 (*dd*).

[7] These words, brackets and figures were inserted, *ibid.*, s. 47 (*e*).

[8] The word "and" was deleted, *ibid.*, s. 47 (*f*).

[9] These words were substituted for the words "the District Judge or the Collector", *ibid.*, s. 47 (*g*).

[1][(*rr*) authorising the payment of contributions, at such rates and subject to such conditions as may be prescribed in such rules, to any provident fund which may be established by a panchayat, or with the approval of the panchayat, by the officers and servants of the panchayat ;]

[2][(*s*) for any other matter which may be prescribed;]

(*2*) The rules to be made under sub-section (*1*) shall be subject to the condition of previous publication.

(*3*) Rules made under sub-section (*1*) shall be laid [3][before each of the Chambers of the Provincial Legislature] at the session [4][thereof] next following and shall be liable to be modified or rescinded by a resolution [5][in which both Chambers concur] and such rule shall, after notification in the [6][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [7][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [7][the Provincial Government] may, by notification in the [6][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if it had not been modified or rescinded.

By-laws.

109. (*1*) The district local board may, with the previous sanction of the Commissioner, make by-laws generally for the carrying out of the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing provision, the district local board may make by-laws—

(*a*) under section 19, prescribing the time and place of the sittings and regulating the procedure at meetings of a panchayat, and fixing a quorum ;

(*b*) under section 20, prescribing the powers and duties of a sarpanch which may be exercised and performed by a deputy sarpanch ;

(*c*) under section 26—

(*i*) for the purification and protection from pollution of all sources of water used for drinking purposes ;

(*ii*) for the prohibition of the removal or use for drinking purposes of any water from any stream, tank, well or other source, where such removal or use causes, or is likely to cause, disease or injury to health, and the prevention of such removal or use by the filling in or covering over of such tank or well, or by any other method which may be considered advisable ;

(*iii*) for the prohibition of the deposit or storage of manure, refuse or other offensive matter in a manner or in places prejudicial to the public health, comfort or convenience ;

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[1] This clause was inserted by Bom. 4 of 1949, s. 6.

[2] Clause (*s*) was inserted by Bom. 18 of 1939, s. 47 (*h*).

[3] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[4] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[5] The words "in which both Chambers concur" were substituted for the words "of the said Council", *ibid.*

[6] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[7] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

(*iv*) for the regulation of offensive callings or trades;

(*v*) for the disposal of corpses by burning or burial;

(*vi*) for the excavation of earth and the filling up of excavations and depressions injurious to health or offensive to the neighbourhood;

(*vii*) for the removal of noxious vegetation;

(*viii*) for the repair and removal of dangerous or ruinous buildings;

(*ix*) for the prevention of the erectionof buildings wihout adequate provisions for ventilation, or the laying out and location of streets;

(*x*) for the control of fairs and bazars, and the regulation of markets, slaughter-houses and cart-stands;

(*xi*) for the inspection and destruction of unfit food and drink exposed for sale; and

(*xii*) for the general regulation of sanitation and conservancy;

(*d*) under section 28, for the supervision of labourers employed by local boards, and of repairs to dharamsalas, the management and maintenance of cattle-pounds, execution of works entrusted by the district local board, distribution of irrigation water and performance of other duties assigned by [1][the Provincial Government].

(*3*) Any by-law made under the foregoing sub-sections may provide that a contravention thereof shall be punishable—

(*a*) with a fine, which may extend to Rs. 10, or

(*b*) in the case of a continuing contravention, with a fine, which may extend to Re. 1 per day after conviction for the first contravention during the period within which such contravention continues.

CHAPTER XIII.

MISCELLANEOUS.

Liability of members for loss, waste or misapplication.

110. (*1*) Every member of a panchayát shall be personally liable for the loss, waste or misapplication of any money or other property of the panchayat, to which he has been a party, or which has been caused or facilitated by his misconduct or gross neglect of his duty as a member.

(*2*) If, after giving the member concerned a sufficient opportunity for showing cause to the contrary, the Collector is satisfied that the loss, waste or misapplication of any money or other property of the panchayat is a direct consequence of misconduct or gross neglect on his part, the Collector [2][shall], by order in writing direct such member to pay to the panchayat before a fixed date, the amount required to reimburse it for such loss, waste or misapplication.

(*3*) If the amount is not so paid the Collector shall recover it as an arrear of land revenue and credit it to the village fund.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The word "shall" was substituted for the word "may" by Bom. 18 of 1939, s. 48 (*1*).

(*4*) The decision of the Collector shall be [1][subject to an appeal to the Commissioner] as to the liability of a member under sub-section (*2*) and as to the amount to be recovered from him.

111. (*1*) No action shall lie against any member, officer, servant or agent of a panchayat or a [2][*nyaya panchayat*] acting under its direction, in respect of any thing done in good faith under this Act or any rule or by-law. Bar of action against panchayats, [2][*nyaya panchayats*] etc., and previous notice before institution.

(*2*) No action shall be brought against any panchayat or [2][*nyaya panhayat*] or any member, officer, servant or agent of such panchayat or [2][*nyaya panchayat*] acting under its direction for anything done or purporting to have been done under this Act, until the expiration of three months next after notice in writing has been left or delivered at the office of the panchayat or [2][*nyaya panchayat*] and also at the residence of the member, officer, servant or agent thereof against whom the action is intended to be brought. The notice shall state the cause of action, the nature of the relief sought, the amount of compensation claimed and the name and place of abode of the person, who intends to bring the action.

(*3*) Every such action shall be commenced within six months after the accrual of the cause of action and not afterwards.

(*4*) If any panchayat or [2][*nyaya panchayat*] or person to whom a notice under sub-section (*2*) is given shall, before an action is brought, tender sufficient amends to the plaintiff and pay into court the amount so tendered, the plaintiff shall not recover more than the amount so tendered. The plaintiff shall also pay all costs incurred by the defendant after such tender.

112. (*1*) [3][The Provincial Government] may, by notification in the [4][*Official Gazette*], authorise the Commissioner or any officer [5][including an officer] specially empowered under sub-section (*3*) of section 95 to exercise in respect of panchayats [6]* * * any of the powers which may be exercised by [3][the Provincial Government] under this Act [7][except the powers in respect of the [2][*nyaya panchayat*] under Chapter VI]. Delegation of powers.

(*2*) [3][The Provincial Government] may also, by notification in the [4][*Official Gazette*], authorise any person to exercise in respect of panchayats any of the sowers conferred on a district local board under the provisions of this Act, when upch district local board shall have been dissolved or superseded.

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[1] These words were substituted for the word "final", by Bom. 18 of 1939, s. 48 (*2*).

[2] These words were substituted for the words "village bench" or "bench" by Bom. 60 of 1947, s. 25.

[3] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] These words were inserted by Bom. 18 of 1939, s. 49 (*1*) (*a*).

[6] The words "and village benches" were deleted, *ibid.*, s. 49 (*1*) (*b*).

[7] These words were inserted, *ibid.*, s. 49 (*1*) (*c*).

(*3*) Subject to rules made in this behalf, the [1][District Court] may delegate to a Subordinate Judge the powers exercisable by [2][the District Court in regard to suits under this Act] in respect of a [3][*nyaya panchayat*] in a village within the jurisdiction of the said Subordinate Judge.

[4][(*4*) Subject to rules made in this behalf, the District Magistrate may delegate to a Magistrate of the First Class exercising appellate jurisdiction under section 407 of the Criminal Procedure Code, 1898, the powers exercisable by him in regard to cases under this Act in respect of a [3][*nyaya panchayat*] in a village within the said jurisdiction of the said Magistrate. V of 1898.

(*5*) Subject to the general or special orders of the Provincial Government the Collector may delegate to an officer not below the rank of an Assistant or Deputy Collector powers [5]* * exercisable by the Collector under this Act.]

Local inquiry and reports by panchayat.

113. It shall be the duty of every panchayat to inquire and report in any of the following cases :—

(*a*) any case where a magistrate has directed that a previous local investigation be made by a panchayat under section 202 of the Code of Criminal Procedure, 1898, and the words "such other person" in sub-section (*1*) of the said section shall be deemed to include a panchayat; V of 1898.

(*b*) any case in which a magistrate making an inquiry under section 488 of the Code of Criminal Procedure, 1898, may require from the panchayat in whose village either the wife or child for whose maintenance the application is made or the husband or parent respectively of such wife or child resides, a report as to the amount of maintenance which, having regard to the circumstances of the parties, should be payable and such report shall be evidence in such inquiry : V of 1898.

Provided that no member of the panchayat shall be required to attend as a witness touching any matter on which the report is itself evidence, but the magistrate, may in his discretion, call for a further report.

Members, etc., of panchayats or [1][*nyaya panchayats*] to be public servants.

114. Every member of a panchayat or [3][*nyaya panchayat*] and every officer and servant maintained by or employed under a panchayat or [3][*nyaya panchayat*] shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

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[1] These words were substituted for the words "District Judge" by Bom. 18 of 1939, s. 49 (*2*).

[2] These words were substituted for the words, figures and brackets, "the District Judge in regard to suits under sub-section (*1*) of section 87.", *ibid.*

[3] These words were substituted for "village bench" by Bom. 60 of 1947, s. 25.

[4] Sub-sections (*4*) and (*5*) were substituted for the original sub-section (*4*), by Bom. 18 of 1939 s. 49 (*3*).

[5] The words and figure "other than the powers under section 4" were deleted by Bom. 2 of 1945, s. 8, and with Bom. 60 of 1947, s. 2.

Bom. IX of 1920.

115. (1) The Bombay Village Panchayats Act, 1920, is hereby repealed: Provided that— Repeal and savings.

(*a*) such repeal shall not affect the liability of any person to pay any sum due from him under the said Act or the validity or invalidity of anything already done thereunder;

Bom. IX of 1920.

(*b*) all panchayats established under the Bombay Village Panchayats Act, 1920, and existing immediately before the coming into force of this Act shall be deemed to have been established under this Act;

and the rights and liabilities of any such panchayats shall be vesting in and attached to the panchayat so deemed to have been established;

and any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed in respect of any such panchayat under the Act so repealed shall, so far as is not inconsistent with the provisions of this Act, be deemed to have been made, issued or imposed under the provisions of this Act, in respect of the panchayats so deemed to have been established under this Act unless and until superseded by any appointment, notification, notice, tax, order, permission, rule or by-law made, issued or imposed under this Act.

(2) During such time as this Act and the rules and by-laws shall be in operation in any village, the enactments mentioned in the Schedule shall, to the extent specified in the third column of the Schedule, cease to have any operation in the said village.

SCHEDULE.

(*See* section *115*)

No. and year of enactment.	Subject or Title.	Extent of repeal.
Bombay Act VII of 1867	.. The Bombay District Police Act, 1867.	Sections 33 and 34.

BOMBAY ACT No. XIII of 1933.[1]

[THE CITY OF BOMBAY MUNICIPAL (AMENDMENT) ACT, 1933.]

[*28th September 1933.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act further to amend the City of Bombay Municipal Act, 1888, with a view to transfer the powers and duties of the Trustees for the Improvement of the City of Bombay to, and to vest the property and rights vested in the said Trustees in, the Municipal Corporation of the City of Bombay, on the dissolution of the Board of the said Trustees.

Bom. XVI of 1925. Bom. IV of 1898. WHEREAS the [2]City of Bombay Improvement Trust Transfer Act, 1925, was enacted with a view to transfer to the Municipal Corporation of the City of Bombay the powers of the Board of Trustees for the Improvement of the City of Bombay constituted under the [3]City of Bombay Improvement Act, 1898, and to entrust to the said Corporation, subject to the conditions and limitations specified, the duties of the said Board and to vest in the said Corporation, for the purpose of the improvement of the City of Bombay, the property and rights of the said Board;

Bom. XVI of 1925. And whereas in pursuance of the aforesaid object the duty of carrying out the provisions of the [2]City of Bombay Improvement Trust Transfer Act, 1925, was, subject to the conditions and limitations therein contained, entrusted to the said Corporation as the Board of Trustees for the Improvement of the City of Bombay as a body corporate with perpetual succession and a common seal and certain property and rights were vested in the said Board;

And whereas by section 83 of that Act it was further provided that when the Corporation are satisfied that there is no longer any necessity for the continuance of the Board of Trustees they shall make a representation to Government in that behalf and the Government may, in the manner prescribed in the said section, dissolve the Board;

Bom. III of 1888. And whereas a representation has been made to the Government of Bombay by the said Corporation that the said Board be now dissolved and that legislation may be undertaken to make such amendments as may be necessary in the City of Bombay Municipal Act, 1888, for that purpose;

And whereas it appears to the Government of Bombay that the said Board should now be dissolved and that the powers and duties of the said Board should be transferred to and the property and rights vested in the said Board should be vested in the said Corporation subject to the limitations hereinafter mentioned and that a committee of the said Corporation to be called the Improvements Committee should be constituted in accordance with the provisions of this Act, and subject to the restrictions and conditions hereinafter specified, for the purpose of the improvement of the City of Bombay in the manner hereinafter mentioned;

And whereas it is proposed that certain lands shall be vested in the said Corporation in the manner hereinafter appearing;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, pp.155–165; for Report of the Select Committee, *see ibid.*, 1933, Pt. V, pp. 541–552 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vols. XXXVII and XXXVIII.

[2] Since repealed by Bom. 13 of 1933, Appendix.

[3] Repealed by Bom. 16 of 1925, s. 4.

And whereas the plans of such last mentioned lands have been deposited with the Collector of Bombay and are hereinafter referred to as the deposited plans;

And whereas for the purposes aforesaid it is expedient to amend the City of Bombay Municipal Act, 1888, in manner hereinafter appearing; Bom. III of 1888.

And whereas the previous sanction of the Governor General required by sub-section (3) of section 80A of the Government of India Act, and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. V c. 61.

Short title.

1. This Act may be called the City of Bombay Municipal (Amendment) Act, 1933.

Commencement.

2. This Act shall come into operation from such date as [1]the Government may, by notification in the [2][*Official Gazette*], appoint.

3–37. [*Amendments made by sections 3–37 have been incorporated in the City of Bombay Municipal Act, 1888 (Bom. 3 of 1888).*]

Provision regarding pending cases.

38. Notwithstanding anything contained in sections 90, 354S, 354T and 354U of the said Act and in section 40 of this Act, in respect of appeals made to the High Court under the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, before the date on which this Act comes into operation, the High Court shall continue to perform the functions assigned to it under the aforesaid Acts and every such appeal shall, so far as may be, be decided in accordance with the provisions of the aforesaid Acts as if this Act had not been passed. Bom. IV of 1898. Bom. XVI of 1925.

Further provision regarding pending references.

39. All references, moneys, securities, properties, papers, documents, vouchers, books, records and proceedings transferred to the High Court under section 66A of the City of Bombay Improvement Trust Transfer Act, 1925, shall be disposed of by the High Court, as nearly as may be, in accordance with the provisions of that Act and the provisions of that Act shall, so far as may be, apply to them, as if they had been made, held or controlled in accordance with that Act and as if this Act had not been passed. Bom. XVI of 1925.

Officers and servants of the Board to become municipal officers and servants.

40. (*1*) From the date on which this Act comes into operation every officer and servant of the Board constituted under the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, shall be deemed to be for all purposes a municipal officer or servant and the designations, grades, salaries, fees and allowances of such officers and servants shall be deemed to have been duly sanctioned under section 79 of the City of Bombay Municipal Act, 1888, and the provisions of the said Act and of any regulations made thereunder relating to municipal officers and servants shall apply to all such officers and servants as if they had been appointed under the said Act: Bom. IV of 1898. Bom. XVI of 1925. Bom. III of 1888.

Provided that such officers and servants shall not be entitled to claim the benefit of any pension or special leave admissible under the pension rules or leave rules of the Corporation.

(*2*) Any officer or servant of the said Board, who has been in the service of the Board for a period of not less than five years before the date on which this Act comes into operation shall be entitled in case of retirement within two years from the date of the passing of this Act, to all the benefits of the rules regarding leave in force at the date of the passing of this Act, and to draw his share of the said Board's contribution to the provident fund.

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[1] The Government means the Provincial Government.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Bom. XVI of 1925.

(*3*) The person holding the office of Chief Officer under section 26 of the City of Bombay Improvement Trust Transfer Act, 1925, at the commencement of the City of Bombay Municipal (Amendment) Act, 1933, shall, so long as he continues to be the Deputy Municipal Commissioner (Improvements) under the provisions of sub-section (*4*) of section 56A, in all matters of leave and provident fund continue to be governed by the terms and conditions of his appointment as such Chief Officer and be entitled to the benefits thereof. Leave and provident fund of Chief Officer appointed Deputy Municipal Commissioner (Improvements).

(*4*) If the said person be appointed Deputy Municipal Commissioner (Improvements) under sub-section (*1*) of section 56A, he shall, in all matters of leave and, provident fund, be deemed to have been subject from the date of his appointment as Chief Officer to the rules to which he would have been subject had he been appointed on the said date a Deputy Commissioner under this Act and to be entitled to the benefits thereof.

41. Notwithstanding anything contained in the said Act, the Commissioner, in addition to the sum payable to the Board of Trustees for the Improvement of the City of Bombay under section 84 of the City of Bombay Improvement Trust Transfer Act, 1925, shall in the municipal accounts, under a separate heading, credit to the accounts of the property vested or vesting in the Corporation and of the receipts and expenditure of the Corporation on account of the transfer to them of the powers, duties, assets and liabilities of the Board of Trustees for the Improvement of the City of Bombay constituted under the City of Bombay Improvement Trust Transfer Act, 1925, and in the manner prescribed in section 123A of the said Act :— Transitory provisions.

Bom. XVI of 1925.

Bom. XVI of 1925.

(*i*) a sum equal to the amount of the actual net realizations of the Corporation for the financial year 1932–33 under the head of general tax or payments made in lieu of general tax (including arrears and payments in advance) divided by the rate fixed for the general tax for the said financial year ; and

(*ii*) a sum equal to three-fourths of the net receipts from the tobacco duty levied under section 2 of the Tobacco Duty (Town of Bombay) Act, 1857, from the 19th day of March 1932 until the 31st day of March 1934 (both days inclusive).

IV of 1857.

42. The enactments specified in the Appendix are hereby repealed to the extent mentioned in the fourth column thereof ; Repeal.

Provided that—

(*a*) the said repeal shall not affect the validity or invalidity of anything already done under the said Acts or under the City of Bombay Improvement Act, 1898 ;

Bom. IV of 1898.

(*b*) the said repeal shall not affect any appeal made to the High Court from any award or any part of the award of the Tribunal of Appeal under sub-section (*11*) of section 48 of the City of Bombay Improvement Act, 1898, before the date on which this Act comes into operation ; but every such appeal shall, so far as may be, be decided by the High Court in accordance with the provisions of the City of Bombay Improvement Act, 1898, as supplemented by Act XIV of 1904 as if this Act had not been passed ;

Bom. IV of 1898.

Bom. IV of 1898.

(*c*) all appointments, rules, orders and by-laws made, notifications and notices issued, rents, premia, and fees imposed, contracts entered into and suits and other proceedings instituted under the City of Bombay Improvement Act, 1898, and the City of Bombay Improvement Trust Transfer Act, 1925, shall, so far as may be, be deemed to have been respectively made, issued, imposed, entered into and

Bom. IV of 1898.

Bom. XVI of 1925.

instituted under the City of Bombay Municipal Act 1888, as amended by this Act; Bom. III of 1888.

(*d*) all debts and obligations incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Board of Trustees constituted under the City of Bombay Improvement Act, 1898, or of the City of Bombay Improvement Trust Transfer Act, 1925, before this Act comes into operation shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Municipal Corporation of the City of Bombay; Bom. IV of 1898 Bom. XVI of 1925.

(*e*) sections 42 to 51 inclusive of the City of Bombay Improvement Trust Transfer Act, 1925, shall continue to have effect, so far as applicable, with respect to all Poorer Classes Accommodation Schemes duly sanctioned in accordance with the provisions of the City of Bombay Improvement Act, 1898, or the City of Bombay Improvement Trust Transfer Act, 1925, before the date on which the City of Bombay Municipal (Amendment) Act, 1933, comes into operation, provided that references in the said sections to the committee and to the Board shall be deemed to be references to the Improvements Committee constituted under the City of Bombay Municipal Act, 1888, as amended by the City of Bombay Municipal (Amendment) Act, 1933, and to the Municipal Corporation of the City of Bombay respectively. Bom. XVI of 1925. Bom. IV of 1898. Bom. XVI of 1925. Bom. III of 1888.

Nothing in this Act shall affect any present right of appeal which may have accrued to any party before the date on which this Act comes into operation.

APPENDIX.

ENACTMENTS REPEALED.

(*See* section 42.)

Year.	No.	Short title.	Extent of repeal.
1898 ..	I	The City of Bombay Municipal Investments Act, 1898.	Sections 2 and 3.
1925 ..	XVI	The City of Bombay Improvement Trust Transfer Act, 1925.	The whole.
1927 ..	IV	The City of Bombay Improvement Trust Transfer (Amendment) Act, 1927.	Do.
1927 ..	V	The City of Bombay Improvement Trust Transfer (Amendment No. 2) Act, 1927.	Do.
1928 ..	VI	The City of Bombay Improvement Trust Transfer (Amendment), Act, 1928.	Do.
1931 ..	XI	The City of Bombay Improvement Trust Transfer (Amendment) Act, 1931.	Do.
1931 ..	XXI	The City of Bombay Municipal and Improvement Trust Transfer (Amendment) Act, 1931.	In section 1 the word "and Improvement Trust Transfer. Section 3.
1931 ..	XXIV	The City of Bombay Improvement Trust Transfer (Second Amendment) Act, 1931.	The whole.

BOMBAY ACT No. XVIII OF 1933.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1933.]

[*18th October 1933.*]

An Act further to amend the Indian Registration Act, 1908, in its application to the Presidency of Bombay.

XVI of 1908 WHEREAS it is expedient further to amend the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, for the purpose hereinafter appearing;

5 & 6 Geo. V. c. 61. And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1933. Short title.

XVI of 1908. **2.** To clause (*gg*) of sub-section (*1*) of section 69 of the [2]Indian Registration Act, 1908, in its application to the Presidency of Bombay, hereinafter called the said Act, the following, shall be added, namely:— Amendment of section 69 of Act XVI of 1908.

"and the manner of fixing the signature and seal of the Photo-Registrar at the end of a length of film;"

3. To clause (*c*) of sub-section (*1*) of section 70D of the said Act the following shall be added, namely:— Amendment of section 70D of Act XVI of 1908.

"Provided that when more than one such negative is recorded on one length of film and the Photo-Registrar has affixed his signature and seal at the end of such length of film certifying in the manner prescribed by rules made in this behalf, the exact correspondence of all copies on such length of film with the original documents, the Photo-Registrar shall be deemed to have affixed his signature and seal to each such negative on such length of film."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, p. 962; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVIII.

[2] *See* Central Acts.

THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1933.

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9. Amendment of section 123 of Act III of 1909.
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11. Repeal.

SCHEDULE I.

BOMBAY ACT No. XX OF 1933.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1933.]

[*27th October 1933.*]

Amended by Bom. 3 of 1935.

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Adapted and modified by the Adaptation of Indian Laws Supplementary Order in Council.

Amended by Bom. 17 of 1945.*

An Act to amend the Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay].

WHEREAS it is expedient to amend the [3]Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay] for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80-A of the Government of India Act and the previous sanction of the Governor required by section 80-C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

III of 1909. 5 & 6 Geo. V, c. 61.

Short title and extent.

1. (*1*) This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1933.

(*2*) It extends to [2][the Greater Bombay] [4][and the town of Karachi].

Amendment of section 74 of Act III of 1909.

2. In section 74 of the [3]Presidency-towns Insolvency Act, 1909, in its application to [2][the Greater Bombay] [5][and the town of Karachi], hereinafter referred to as "the said Act" for the words "it, and also to pay out of his owner money interest thereon" the words "such dividend and interest thereon" shall be substituted. (III of 1909.)

Insertion of new section 77A in Act III of 1909. Official Assignee to be corporation sole.

3. After section 77 of the said Act, the following section shall be inserted, namely :—

"77A. The Official Assignee shall be a corporation sole by the name of the Official Assignee of Bombay [6][or, the Official Assignee of Karachi, as the case may be], and as such Official Assignee shall have perpetual succession and an official seal and may sue and be sued in his corporate name and may do all acts necessary or expedient to be done in the execution of his office."

Amendment of section 82 of Act III of 1909. Liability of Provincial Government

4. For section 82 of the said Act, the following section shall be substituted, namely :—

"82. The revenues of the [7][Provincial Government] shall be liable to make good all sums required to discharge any liability which the Official Assignee may be liable to discharge, except when such liability is one to which neither the Official Assignee nor any of his officers has in any way contributed or which neither he nor any of his officers could, by the exercise of reasonable diligence, have averted and in either of these cases the Official Assignee shall not, nor shall the revenues of the [7][Provincial Government], be subject to any liabilities."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, pp. 973-974; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVIII.

[2] These words were substituted for the original by Bom. 17 of 1945 read with Bom. 52 of 1947, s. 2, proviso.

[3] *See* Central Acts.

[4] The words "and the town of Karachi" were inserted by Bom. 3 of 1935, s. 2 (*i*).

[5] The words "and the town of Karachi" were inserted, *ibid.*, s. 2 (*ii*).

[6] The words "or, the Official Assignee of Karachi, as the case may be" were inserted, *ibid.*, s. 2 (*iii*).

[7] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

* This Act has been repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Amendment of section 83 of Act III of 1909.

5. For section 83 of the said Act, the following section shall be substituted, namely :—

Description by which Official Assignee to be mentioned in suits or proceedings.

"83. In all suits or proceedings by or against the Official Assignee, there shall be inserted after his official title, the description 'as assignee of the property of an insolvent (naming the particular insolvent)'."

Amendment of section 112 of Act III of 1909.

6. In sub-section (*2*) of section 112 of the said Act:—

(*i*) for clause (*d*), the following clause shall be substituted, namely:—

[1]* * * * * * *

(*ii*) in clause (*f*), after the word "audit" the words "and inspection" shall be inserted;

(*iii*) clause (*g*) shall be deleted;

(*iv*) in clause (*h*), the words "out of the proceeds aforesaid" shall be deleted; and

(*v*) to clause (*i*), the words "or otherwise in his official capacity" shall be added.

Insertion of a new section 121A in Act III of 1909.

7. After section 121 of the said Act, the following section shall be inserted, namely :—

Transfer of certain funds to Provincial Government.

"121A. The sums and securities standing to the credit of—

[2][(*a*)] (*1*) the Unclaimed Dividend (Capital) Account less the sum of Rs. 50,000,

(*2*) the Unclaimed Dividend Revenue Account less the sum of Rs. 25,000,

(*3*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account less the sum of Rs. 20,000, and

(*4*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account,

with the High Court of Judicature, Bombay, [3][and

(*b*) (*1*) the Unclaimed Dividend (Capital) Account less the sum of Rs. 7,500,

(*2*) the Unclaimed Dividend (Revenue) Account less the sum of Rs. 3,000, and

(*3*) the Official Assignee's Fund, with the Court of the Judicial Commissioner of Sind,

are hereby transferred to the [4][Provincial Government]:

Provided that the revenues of the [4][Provincial Government] shall be liable to make good all sums required to meet the claims upon the said sums and securities of persons entitled thereto."

Amendment of section 122 of Act III of 1909.

8. In section 122 of the said Act—

(*i*) for the word "prescribed" the words "determined by the [4][Provincial Government]" shall be substituted; and

(*ii*) for the words "the Government of India", the words "[4][Provincial Government]" shall be substituted.

Amendment of section 123 of Act III of 1909.

9. In section 123 of the said Act, for the words "Government of India" where they occur at both the places and for the words "Governor General in Council" the words "[4][Provincial Government]" shall be substituted.

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[1] Clause (*d*) was omitted by the Adaptation of Indian Laws Supplementary Order in Council.

[2] This letter and brackets were inserted by Bom. 3 of 1935, s. 2 (*iv*).

[3] These words, letter, figures and brackets were substituted for the words "are hereby transferred to the Local Government" by Bom. 3 of 1935, s. 2 (*iv*).

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

10. After section 123 of the said Act, the following sections shall be inserted, namely :— Insertion of new sections 123A and 123B in Act, III of 1909.

"123A. The [1][Provincial Government] may, [2][out of sums and securities standing to the credit of the accounts of the Official Assignee, Bombay, specified in clauses (*1*) and (*2*)] from time to time after consultation with the High Court of Judicature, Bombay,— Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts 2[relating to the office of the Official Assignee, Bombay].

(*1*) determine the amount to be set apart out of—

(*i*) the Unclaimed Dividend (Capital) Account, and

(*ii*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account,

for meeting the claims of creditors or debtors made within the period specified in section 122, and

(*2*) transfer sums to the revenues of the [1][Provincial Government] from—

(*i*) the Unclaimed Dividend (Capital) Account,

(*ii*) the Unclaimed Dividend Revenue Account,

(*iii*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Unclaimed Balances Account, and

(*iv*) the Chief Clerk and Sealer's (Insolvent Debtors' Court) Investment of Interest Account."

"[3][123B. The [1][Provincial Government] may out of the sums and securities standing to the credit of the accounts of the Official Assignee, Karachi, specified in clauses (*1*) and (*2*) from time to time after consultation with the Court of the Judicial Commissioner of Sind, Provincial Government to determine the amount to be set apart and the sums to be transferred out of certain accounts relating to the office of the Official Assignee, Karachi.

(*1*) determine the amount to be set apart out of the Unclaimed Dividend (Capital) Account, for meeting the claims of creditors or debtors made within the period specified in section 122, and

(*2*) transfer sums to the revenues of the [1][Provincial Government] from—

(*i*) the Unclaimed Dividend (Capital), Account,

(*ii*) the Unclaimed Dividend (Revenue) Account, and

(*iii*) the Official Assignee's Fund]."

11. The provisions of the said Act specified in Schedule I hereto annexed shall be repealed. Repeal.

SCHEDULE I.

(*Provisions repealed.*)

(Section 11.)

Sections 61, 68 (*2*), 84 and 87 (*3*).

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] These words, figures and brackets were inserted by Bom. 3 of 1935, s. 2 (*v*) (*1*).

[3] Section 123B was added by Bom. 3 of 1935, s. 2 (*v*) (*3*).

THE BOMBAY LIVE-STOCK IMPROVEMENT ACT, 1933.

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2. Extent.
3. Definitions.
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5. Prohibition for keeping a bull for breeding purposes.
6. Grant of licences.
7. Refusal to grant or revocation of licence.
8. Grant of duplicate licence.
9. Duration of licence.
10. Inspection of bulls.
11. Power to order castration of bulls.
12. Duty to produce licence.
13. Penalty for keeping a bull in contravention of this Act or rules or without or in contravention of licence.
14. Penalty for neglect or failure to comply with notice under section 7 or 11.
15. Penalty for neglect or failure to comply with requisition under section 10 or 12.
16. Power of live-stock officer to castrate.
17. Power of live-stock officer to inspect or mark a bull or to enter premises.
18. Officers bound to assist live-stock officers.
19. Cognizance of offences under the Act.
20. Live-stock officer to be public servant.
21. Protection of persons acting in good faith and limitation of suits and prosecutions.
22. Revision.
23. Power of Provincial Government to make rules.
24. Power of Provincial Government to apply the provisions of this Act to buffalo-bulls.
25. Saving.

BOMBAY ACT No. XXII OF 1933.[1]

[THE BOMBAY LIVE-STOCK IMPROVEMENT ACT, 1933.]

[*1st December 1933.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the improvement of live-stock.

WHEREAS it is expedient to provide for the improvement of live-stock in the manner herein provided; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A and the previous sanction of the Governor required under section 80C of the Government of India Act, have been obtained for the passing of this Act; It is hereby enacted as follows :—

26 Geo. V, c. 61.

1. This Act may be called the Bombay Live-stock Improvement Act, 1933. Short title.

2. (*a*) Section 1 and this section extend to the whole of the Presidency of Bombay Bombay. Extent.

(*b*) On a written application made—

(*i*) by the district local board with the previous concurrence of the Director of Agriculture, or

(*ii*) by the Director of Agriculture with the previous concurrence of the district local board,

[2][the Provincial Government] may, by notification in the [3][*Official Gazette*], direct that the remaining provisions of this Act shall extend to any village in respect of which the application has been made.

(*c*) Section 1 and this section shall come into force at once and the remaining provisions of this Act shall come into force in any village to which the said provisions shall have been extended under sub-section (*b*) on such date as [2][the Provincial Government] may by notification in the [3][*Official Gazette*] appoint.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Cow" includes a heifer;

(*2*) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture;

(*3*) "Licence" means a licence granted under section 6;

(*4*) "Live-stock officer" means an officer or person appointed or invested with powers under section 4;

(*5*) "Prescribed," with its grammatical variations, means prescribed by rules;

(*6*) "Rules" means rules made under section 23;

(*7*) "Village" means a village as defined in the Bombay Land Revenue Code, 1879; and

Bom. V of 1879.

(*8*) "A person is said to keep a bull," if such person owns the bull or has the bull in his possession or custody.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Part V, pp. 1000-1001 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933, Vol. XXXVIII.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

Appointment of live-stock officer.

4. [1][The Provincial Government] may, by notification in the [2][*Official Gazette*], appoint the Director of Agriculture or any other officer of the Department of Agriculture to be a live-stock officer and assign to such officer such powers and duties under this Act, as they may deem fit.

Prohibition for keeping a bull for breeding purposes.

5. No person shall keep a bull which has attained the prescribed age except under and in accordance with the terms, conditions and restrictions of a licence granted under section 6.

Grant of licences.

6. Every licence for the keeping of a bull shall be granted by a live-stock officer authorised by [1][the Provincial Government] be general or special order in this behalf in such form, for such period, and subject to such terms, conditions and restrictions as may be prescribed :

Provided that no fee shall be charged for the grant of a licence.

Refusal to grant or revocation of licence.

7. (*1*) Subject to rules, the live-stock officer authorised to grant the licence may refuse to grant or may revoke a licence, if in the opinion of such authority, the bull appears to be—

(*a*) of defective or inferior conformation and likely to beget defective or inferior progeny ; or

(*b*) permanently affected with any contagious or infectious disease ; or

(*c*) permanently affected with any other disease rendering the bull, unsuitable for breeding purposes.

(*2*) The live-stock officer granting a licence may also revoke a licence if in the opinion of such officer there be any breach of any of the terms or conditions of the licence.

(*3*) No person shall be entitled to any compensation for the revocation of a licence under sub-section (*1*) or (*2*).

(*4*) If a licence is revoked under sub section (*1*) or (*2*), the live stock officer revoking the licence shall give notice to that effect to the owner or the person stated therein to be the owner of the bull and any such notice given in respect of a licence shall state the grounds for the revocation.

(*5*) If the notice is duly given in accordance with the last foregoing sub-section to a person who is not the owner of the bull, it shall be the duty of that person forthwith to take all reasonable steps to inform the owner accordingly, and if he fails to do so, he shall indemnify the owner against any loss the owner may suffer by reason of the failure.

Grant of duplicate licence.

8. When the live-stock officer granting the licence is satisfied that a licence granted under section 6 has been lost or destroyed, such officer may, subject to such conditions as may be prescribed, issue to the holder of the licence a duplicate thereof, and thereupon all the provisions of this Act with respect to the licence shall apply to the duplicate as if it were the original licence.

Duration of licence.

9. A licence granted in respect of a bull shall remain in force until—

(*a*) the period specified therein expires, or

(*b*) it is revoked under this Act, or

(*c*) the bull dies or is castrated in the prescribed manner.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

10. Any person who keeps a bull shall at any reasonable time, either at the place where the bull is for the time being or at any other reasonable place, submit the bull for inspection by any live-stock officer when required by such officer to do so and render all reasonable assistance to that officer for the purpose of inspection. Inspection of bulls.

11. (*1*) A live-stock officer may, by notice served in the prescribed manner, require that any bull which has attained the prescribed age at the date when the notice is served and in respect of which no licence is for the time being in force under this Act, shall be castrated in a prescribed manner within one month after the notice takes effect. Such castration shall, if the owner or other person who keeps the bull requires, be performed or caused to be performed by the live-stock officer free of charge. Power to order castration of bulls.

(*2*) For the purpose of this section, a notice shall be served on the owner of the bull or on any other person who keeps the bull.

(*3*) If a notice under this section is duly served on a person who is not the owner of the bull, it shall be the duty of the person forthwith to take all reasonable steps to inform the owner accordingly, and, if he fails to do so, he shall be liable to indemnify the owner against any loss the owner may suffer by reason of the failure.

12. It shall be the duty of any person who for the time being keeps a bull, if a licence is in force in respect of the bull, to produce the licence— Duty to produce licence.

(*a*) within a reasonable time on demand made by a live-stock officer or an officer of the Agricultural or Veterinary Department authorized by general or special order by [1][the Provincial Government] in this behalf in any place where the bull is for the time being,

(*b*) before a cow is served by a bull on demand made by the person in charge of the cow.

13. Whoever in contravention of this Act or any rule or order made under this Act or of any terms, conditions or restrictions of licence keeps a bull shall, on conviction, be punishable with fine which may extend to Rs. 25. Penalty for keeping a bull in contravention of this Act or rules or without or in contravention of licence.

14. Whoever neglects or fails to comply with a notice served in accordance with section 7 or 11 shall, on conviction, be punishable with fine which may extend to Rs. 25. Penalty for neglect or failure to comply with notice under section 7 or 11.

15. Whoever neglects or fails to submit a bull for inspection when required by a live-stock officer for inspection under section 10 or whoever fails to produce a licence when required to do so in accordance with the provisions of section 12 shall, on conviction, be punishable with fine which may extend to Rs. 25. Penalty for neglect or failure to comply with requisition under section 10 or 12.

16. (*1*) Whenever an offence under section 15 has been committed, or whenever any bull has not been castrated in compliance with the notice served under section 11, it shall be competent to a live-stock officer to castrate or cause to be castrated Power of live-stock officer to castrate.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

in the prescribed manner, the bull in respect of which such offence was committed or such notice was served, as the case may be. Such castration shall be performed or caused to be performed by a live-stock officer free of charge.

(2) It shall also be competent to a live-stock officer to seize any bull, if the person in whose ownership, possession or custody it is, for the time being, is not known or cannot be ascertained after an inquiry in the prescribed manner. On such seizure the live-stock officer may, if he is of opinion that such bull has attained the prescribed age or is suffering from any of the defects or disease specified in section 7, direct that the said bull shall be—

(a) castrated in the prescribed manner, and

(b) sold by public auction or sent to a pinjrapol: provided that if the owner of the said bull appears within fifteen days of such seizure and proves to the satisfaction of the live-stock officer that the said bull is of his ownership,—

the said bull—

(i) if not sold by public auction, or

(ii) if sent to a pinjrapol,

shall be delivered to such owner on payment of the costs, charges and expenses incurred for the maintenance of the said bull and determined in the prescribed manner, or

(iii) if sold by public auction, the proceeds of such sale shall be paid to such owner after deducting therefrom the costs, charges, and expenses incurred for the maintenance and sale of the said bull and determined in the prescribed manner.

Power of live-stock officer to inspect or mark a bull or to enter premises.

17. For the purposes of this Act, a live-stock officer shall have power at all reasonable times—

(a) to inspect any bull,

(b) to mark any bull with any prescribed mark in the prescribed manner,

(c) to enter any premises or other place in the prescribed manner where he has reason to believe that a bull is kept.

Officers bound to assist live-stock officers.

18. All village officers, all village servants useful to [1][the Provincial Government] and all officers of the departments of revenue, agriculture and veterinary shall be bound—

(a) to give immediate information to a live-stock officer of the commission of any offence, or the intention or preparation to commit any offence punishable under this Act which may come to their knowledge;

(b) to take all reasonable measures in their power to prevent the commission of any such offence which they know or have reason to believe is about to be committed; and

(c) to assist any live-stock officer in carrying out the provisions of this Act.

Cognizance of offences under the Act.

19. No Court shall take cognizance of any offence under this Act, except on a complaint made by a live-stock officer or any person authorised by such officer in that behalf.

Live-stock officer to be public servant.

20. Every live-stock officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

21. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules. **Protection of persons acting in good faith and limitation of suits and prosecutions.**

(*2*) No suit shall be instituted against [1][the Crown] and no prosecution or suit shall lie against any live-stock officer in respect of anything done or alleged to have been done, in pursuance of this Act, unless the suit or prosecution has been instituted within four months from the date of the act complained of.

22. [2][The Provincial Government] may call for and examine the record of any order or the proceedings of any live-stock officer for the purpose of satisfying themselves as to the legality and propriety of any order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to [2][the Provincial Government] that any order or proceedings so called for should be modified, annulled or reversed, they may pass such order as they may deem fit. **Revision.**

23. (*1*) [2][The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act. **Power of Provincial Government to make rules.**

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) under section 4, prescribing the powers and duties to be exercised and performed by a live-stock officer and the assignment of such powers or duties,

(*b*) under section 5, prescribing the age of a bull after which it shall not be kept without a licence,

(*c*) under section 6, prescribing the form of, the manner in which, the terms, conditions and restrictions on which, a licence shall be granted, transferred or renewed,

(*d*) under section 7, prescribing the conditions subject to which a licence may be revoked,

(*e*) under sections 7 and 11, prescribing the manner in which notice shall be served,

(*f*) under section 8, prescribing the conditions subject to which a duplicate of a licence may be granted,

(*g*) under sections 11 and 16, prescribing the manner in which a bull shall be castrated, and the manner in which inquiry regarding the ownership of a bull shall be made, and the costs, charges and expenses for the maintenance and sale of a bull shall be determined,

(*h*) under section 17, prescribing the manner and form in which a bull shall be marked and the manner in which a live-stock officer shall enter any premises or other place.

(*3*) Rules made under this section shall be subject to the condition of previous publication in the [3][*Official Gazette*].

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[1] The words "the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*4*) Rules made under this section shall be laid [1][before each of the Chambers of the Provincial Legislature] at the session [2][thereof] next following and shall be liable to be modified or rescinded by a resolution [3][in which both the Chambers concur] and such rule shall after notification in the [4][*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [5][the Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [5][the Provincial Government] may, by notification in the [4][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Power of Provincial Government to apply the provisions of this Act to buffalo-bulls.

24. [5][The Provincial Government] may, by notification in the [4][*Official Gazette*], direct that all or any of the provisions of this Act which shall have been extended to any village under section 2 shall apply to buffalo-bulls in such village from the date specified in such notification and thereupon the references to bulls and cows in the provisions of this Act so applied shall be construed as references to buffalo-bulls and buffalo-cows respectively and this Act shall apply accordingly.

Savings.

25. Nothing in this Act shall apply to a bull dedicated in good faith to a religious purpose according to religious custom and usage.

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[1] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[3] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] The words "the Provincial Government" were substituted for the word "Government", *ibid.*

THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.

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2. Extent, commencement and application.
3. Definitions.
4. Appointment of Conciliators.
5. Labour Officer.
6. Jurisdiction of Conciliators.
7. Application or report for settlement of trade disputes.
8. Conciliator to give notice to parties.
9. Delegates.
10. Disqualification from being a delegate.
11. Conciliation proceeding.
12. Procedure and powers of Conciliator in conciliation proceeding.
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14. Penalty for disclosing confidential information.
15. Exemption of documents from stamp duty, court-fee and registration fees.
16. Penalty.
17. Power of entry.
18. Conciliator and Labour Officer to be public servants.
19. Protection to persons acting in good faith.
20. Rules.
21. Saving of the provisions of the Trade Disputes Act, 1929.

*BOMBAY ACT No. IX OF 1934.[1]

[THE BOMBAY TRADE DISPUTES CONCILIATION ACT, 1934.]

[*9th October 1934.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to make further provision for the prevention and settlement of trade disputes by conciliation and for certain other purposes.

WHEREAS it is expedient to make further provision for the prevention and settlement of trade disputes by conciliation and for certain other purposes hereinafter appearing;

AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act;

5 & 6 Geo. V, c. 61.

It is hereby enacted as follows:—

1. This Act may be called the Bombay Trade Disputes Conciliation Act, 1934. Short title.

2. (*1*) Section 1 and this section extend to the whole of the Bombay Presidency. The remaining provisions of this Act extend to the City of Bombay and the Bombay Suburban District and the [2][Provincial Government] may further, by notification in the [3][*Official Gazette*], direct that the said provisions shall extend to such other area as may be specified in the notification. Extent, commencement and application.

(*2*) Section 1 and this section shall come into force at once. The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (*1*), on such date as may be specified in the notification.

(*3*) This Act shall apply, in the first instance, to the textile trade or industry. The [2][Provincial Government] may, by notification in the [3][*Official Gazette*] direct that the provisions of this Act shall apply to such other trade or industry and in such area as may be specified in the notification.

3. In this Act, unless there is anything repugnant to the subject or context,— Definitions.

(*a*) "Commissioner of Labour" means the officer appointed for the time being to be the Commissioner of Labour;

(*b*) "Conciliator" includes the Chief Conciliator or a Special or Assistant Conciliator appointed under this Act;

(*c*) "Conciliation proceeding" means a proceeding held by a Conciliator under this Act;

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[1] For statement of Objects and Reasons *see Bombay Government Gazette*, 1934, Pt. V, pp. 91-95; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1934, Vol. XL.

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

*This Act shall cease to apply in a local area to any industry in respect of which the provisions of the Bombay Industrial Relations Act, 1946 (Bom. 11 of 1947), have been brought into force in such local area (*vide* s. 121 of Bom. 11 of 1947).

(*d*) "Delegate" means a person appointed under section 9 to represent a party to a trade dispute in a conciliation proceeding and includes the Labour Officer acting as a delegate to represent workmen in such proceeding;

(*e*) "employer" includes any body of persons, whether incorporated or not and any managing agent of an employer;

(*f*) "Labour Officer" means an officer appointed to perform the duties of a Labour Officer under this Act;

(*g*) "prescribed" means prescribed by rules made under this Act;

(*h*) "trade dispute" means any dispute or difference between employers and workmen, which is connected with the employment or non-employment or the terms of the employment, or with the conditions of labour, of any person;

(*i*) words and expressions not defined in this Act, but defined in the [1]Trade Disputes Act, 1929, shall have the meaning assigned to them in that Act. VII of 1929.

Appointment of Conciliators.

4. (*1*) The Commissioner of Labour shall be the ex-officio Chief Conciliator.

(*2*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint any person to be a special Conciliator for such area as may be specified in the said notification.

(*3*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint any person to be an Assistant Conciliator for such area as may be specified in the said notification.

Labour Officers.

5. (*1*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint any person to be a Labour Officer for such area as may be specified in the said notification.

(*2*) The Labour Officer shall exercise the powers conferred and perform the duties imposed on him by or under this Act. It shall be the duty of the Labour Officer to watch the interests of workmen with a view to promote harmonious relations between employers and workmen and to take steps to represent the grievances of workmen to employers for the purpose of obtaining their redress.

(*3*) For the purpose of exercising such powers and performing such duties, the Labour Officer may, after giving reasonable notice, enter any place used for the purpose of any trade or industry to which this Act applies and shall be entitled to inspect and call for documents, relevant to the grievances of workmen, in the possession of any employer or workman, as the Labour Officer deems necessary. The Labour Officer may, for the same purpose, enter after giving reasonable notice any premises provided by an employer for the purpose of residence of his workmen.

(*4*) All particulars contained in or information obtained from any document inspected or called for under sub-section (*3*) shall if the person in whose possession the document was so required, be treated as confidential.

Jurisdiction of Conciliators.

6. (*1*) The Chief Conciliator shall exercise powers and perform duties under this Act throughout the Presidency except in the area for which a Special Conciliator has been appointed under this Act.

(*2*) An Assistant Conciliator shall be subordinate to, and shall exercise such powers and perform such duties as may be delegated to him by, the Chief Conciliator or Special Conciliator, as the case may be.

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[1] See now the Industrial Disputes Act, 1947 (XIV of 1947).

[2] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substitutd for the words "*Bombay Government Gazette*", *ibid.*

7. If any trade dispute exists or is apprehended,— Application or report for settlement of trade disputes.

(*a*) either or both parties to the dispute may apply, whether separately or conjointly, or

(*b*) the Labour Officer may make a report,

to the Conciliator for a settlement of the dispute.

8. (*1*) If the Conciliator, Conciliator to give notice to parties.

(*a*) in any area for which a Labour Officer is appointed, on receipt of an application or report under section 7, or

(*b*) elsewhere, on receipt of an application under section 7 or upon his own knowledge or information,

is satisfied that a trade dispute exists or is apprehended, he may cause notice to be given to the parties to the dispute to appear before him at such time and place as may be specified in the notice.

A copy of such notice shall be sent to the Labour Officer.

(*2*) Notice to the parties shall require them to appoint, within such time as may be specified in the notice, delegates to represent them in the conciliation proceeding.

(*3*) Notice under this section shall be in the prescribed form and shall be served in the prescribed manner.

9. (*1*) On receipt of notice under section 8, the parties to a trade dispute shall within the time specified in the notice or within such time as may be fixed by the Conciliator in this behalf appoint delegates in such manner as the Conciliator may direct: Delegates.

Provided that when a party to the dispute is a single individual, such party may appoint himself as a delegate:

Provided further that the Labour Officer may be appointed as a delegate on behalf of the workmen.

(*2*) The number of delegates appointed by a party to a trade dispute shall not exceed three:

Provided that when, in the opinion of the Conciliator, such party to the dispute is divided into two or more groups, the Conciliator may allow each of such groups to appoint separate delegates not exceeding three:

Provided, further, that the total number of delegates appointed by all the groups forming the party shall not exceed twelve.

(*3*) If an employer who is a party to a trade dispute has failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, such employer shall, on conviction, be punishable with fine which may extend to Rs. 100 and with further fine which may extend to Rs. 100 for every day on which such failure or refusal continues after the date of the first conviction.

Explanation.—Where such employer is a company registered under the [1]Indian Companies Act, 1913, employer shall mean the managing agent or managing director of such company or any other officer of the company authorised to represent such company in the prescribed manner.

(*4*) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under sub-section (*3*).

[1] See Central Acts.

(*5*) No criminal court shall take cognizance of any offence under sub-section (*3*) except with the previous sanction of the [1][Provincial Government].

(*6*) Where workmen who are parties to a trade dispute have failed or refused to appoint any delegate within the time specified in the notice or within such further time as may be fixed by the Conciliator, the Labour Officer shall act as the delegate on behalf of such workmen.

Disqualification from being a delegate.

10. (*1*) A person shall be disqualified from being appointed or acting as a delegate, if such person—

(*a*) is less than twenty-one years of age; or

(*b*) is an uncertificated bankrupt or an undischarged insolvent.

(*2*) A person shall be disqualified from acting as a delegate, if such person is not, in the opinion of the Conciliator, after the conciliation proceedings have started, a fit and proper person to be a delegate.

(*3*) The decision of the Chief Conciliator or the Special Conciliator, as the case may be, that a person is disqualified from being appointed or acting as a delegate shall be final.

Conciliation proceeding.

11. (*1*) On the date specified in the notice under sub-section (*1*) of section 8 or on such other date as may be fixed by the Conciliator on his motion or at the request of any of the parties to a trade dispute, the Conciliator shall hold the conciliation proceeding in the prescribed manner.

(*2*) A party to such trade dispute shall be represented in a conciliation proceeding by delegates. The Labour Officer, even if not appointed or acting as delegate, shall be entitled to be present at such proceeding.

(*3*) It shall be the duty of the Conciliator to endeavour to bring about a settlement of the trade dispute and for this purpose the Conciliator shall inquire into the dispute, and all matters affecting the merits thereof and the right settlement thereof and in so doing may do all such things as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute and may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to agree upon the terms of the settlement.

Procedure and powers of Conciliator in conciliation proceeding.

12. (*1*) A Conciliator shall, subject to the provisions of this Act, follow in a conciliation proceeding such procedure as may be prescribed.

(*2*) For the purpose of holding a conciliation proceeding, the Conciliator shall have the same powers as are vested in courts under the Code of Civil Procedure, 1908, in trying a suit in respect of the following matters, viz. :— V o 1908

(*a*) summoning and enforcing the attendance of any person and examining him on oath;

(*b*) compelling the production of documents and material objects; and

(*c*) issuing commissions for the examinaton of witnesses; and shall have such further powers as may be prescribed.

(*3*) If a party to a trade dispute giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator that such information or the contents of such document may be treated as confidential, the Conciliator shall direct that such information or document be treated as confidential.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*4*) The Conciliator may, if he thinks fit, permit the information or contents of the document in respect of which a request has been made under sub-section (*3*) to be disclosed to the other party to the trade dispute :

Provided that the Conciliator shall not permit such information or the contents of such document to be so disclosed to the other party to the trade dispute, if it is shown to his satisfaction that such disclosure is likely to affect the interests of the party making the request under sub-section (*3*) adversely in any matter not connected with the settlement of the said dispute.

(*5*) Save as provided in sub-section (*4*), the Conciliator or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document directed to be treated as confidential under sub-section (*3*), without the consent in writing of the party making the request under the said sub-section.

(*6*) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution for an offence under section 14 or under the Indian Penal Code.

XLV of 1860

13. (*1*) If a settlement of a trade dispute is arrived at in a conciliation proceeding, a memorandum of such proceeding and settlement shall be drawn up in the prescribed form by the Conciliator and signed by the delegates. The Conciliator shall send a report of such settlement together with a copy of the memorandum to the [1][Provincial Government]. Settlement and Report.

(*2*) If no such settlement is arrived at, the Conciliator shall, as soon as possible, after the close of the conciliation proceeding, send a full report regarding the trade dispute to the [1][Provincial Government], setting forth the particulars of the proceeding and the steps taken by him for the purpose of ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, a settlement could not be made.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*) any information or contents of any document shall not be included in the memorandum of proceedings, settlement or report drawn up or made under sub-section (*1*) or (*2*), if such information or the contents of such document is not permitted by the Conciliator to be disclosed under sub-section (*4*) of section 12.

(*4*) The record of the conciliation proceeding held and settlement made under this section shall be maintained in the prescribed manner.

14. (*1*) If the Conciliator or any prson present at or concerned in a conciliation proceeding wilfully discloses any information or contents of any document in contravention of section 12, he shall, on complaint made by the party who made the request under sub-section (*4*) of section 12, be punishable with fine which may extend to one thousand rupees. Penalty for disclosing confidential information.

(*2*) No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence under this section.

(*3*) No criminal court shall take cognizance of any offence under this section except with the previous sanction of the [1][Provincial Government].

15. Any application, document or other instrument made or produced in the course of any proceeding under this Act shall be exempt from stamp duty, court-fee or registration fee payable under any law for the time being in force. Exemption of documents from stamp duty, court-fee and registration fees.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

Penalty.

16. If any person instigates or incites others not to take part in a conciliation proceeding, or otherwise obstructs or instigates or incites others to obstruct a Conciliator in the discharge of his duties under this Act or molests or abets the molestation of others, with intent to prevent them from taking part in a conciliation proceeding, such person shall, on conviction, be punishable with imprisonment of either description which may extend to six months or with fine or with both.

Explanation.—For the purpose of this section, a person is said to molest any person who—

(*a*) with intent to cause any person to abstain from doing or to do any act which such person has a right to do or to abstain from doing, obstructs or uses violence to or intimidates such person or any member of his family or person in his employ, or loiters at or near a place where such person or member or employed person resides or persistently follows him from place to place, or interferes with any property owned or used by him, or deprives him of or hinders him in the use thereof, or

(*b*) loiters or does any similar act at or near the place where a conciliation proceeding is held, in such a way and with intent that any person may thereby be deterred from entering or approaching such place.

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17. It shall be lawful for a Conciliator at any time and from time to time when necessary for the purposes of exercising the powers conferred and performing the duties imposed by or under this Act to enter any premises used for the purpose of any trade or industry to which this Act applies.

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18. A Conciliator and a Labour Officer shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

section ersons ng in l faith.

19. No suit or proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

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20. (*1*) The [1][Provincial Government] may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) prescribing the powers and duties of the Labour Officer ;

(*b*) prescribing the powers and duties which may be delegated to Assistant Conciliators ;

(*c*) prescribing the form and manner in which notice shall be given under section 8 ;

(*d*) prescribing the manner in which the officer of a company shall be authorised to represent the company under section 9 ;

(*e*) regulating the procedure in which a conciliation proceeding shall be held under section 11 ;

(*f*) determining the scale of fees at which witnesses shall be paid for appearance in a conciliation proceeding under section 11 ;

(*g*) specifying the powers which may be exercised by the Conciliator for the purpose of a conciliation proceeding under section 11 ;

(*h*) prescribing the form in which and the particulars which shall be mentioned in the memorandum of a settlement under section 13 ;

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

(*i*) prescribing the manner in which the record of a conciliation proceeding and settlement shall be maintained under section 13; and

(*j*) providing for any other matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the [1][Provincial Government], necessary for giving effect to the provisions of this Act.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [2][*Official Gazette*].

(*4*) Rules made under this section shall be laid [3][before each of the Chambers of the Provincial Legislature] at the session [4][thereof] next following and shall be liable to be modified and rescinded by a resolution [5][in which both the Chambers concur] and such rule shall after notification in the [2][*Official Gazette*] be deemed to have been modified or rescinded accordingly:

Provided that when in the opinion of the [1][Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][Provincial Government] may by notification in the [2][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

Saving of the provisions of the Trade Disputes Act, 1929.

21. Nothing in this Act shall affect any of the provisions of the Trade Disputes Act, 1929, and no conciliation proceeding shall be held relating to any matter or trade dispute which is referred to and is pending before, the Court of Inquiry or Board of Conciliation under the said Act.

VII of 1929.

[1] The words "Provincial Government" were substituted for the words "Governor in Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[4] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[5] The words "in which both the Chambers concur were" substituted for the words "of the said Council", *ibid.*

THE BOMBAY DEVADASIS PROTECTION ACT, 1934.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Illegality of dedication of a woman as a devadasi.
4. Marriage by a devadasi.
5. Penalty.
6. Release of land from liability for performance of service.
7. Power to make rule

BOMBAY ACT No. X OF 1934.[1]

[THE BOMBAY DEVADASIS PROTECTION ACT, 1934.]

[*15th October 1934.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to protect devadasis and to prevent the dedication of women to Hindu deities, idols, objects of worship, temples and religious institutions in the Bombay Presidency.

WHEREAS the practice of dedicating women as devadasis to Hindu deities, idols, objects of worship, temples or other religious institutions exists in the Bombay Presidency;

AND WHEREAS such practice, however ancient and pure its origin, now leads such women to a life of prostitution;

AND WHEREAS it is now desirable and expedient to end such practice, wherever it exists in the Bombay Presidency;

AND WHEREAS the previous sanction of the Governor General required by section 80A (*3*) and of the Governor required by section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows:— 5 & 6 Geo. V, c. 61.

Short title and extent.

1. (*1*) This Act may be called the Bombay Devadasis Protection Act, 1934.

(*2*) It extends to the whole of the Bombay Presidency.

Definitions.

2. In this Act, unless there is something repugnant in the subject or context:—

(*a*) "devadasi" means any unmarried woman who is dedicated to any Hindu deity, idol, object of worship, temple or other religious institution;

(*b*) "temple" means a place by whatever designation known, dedicated to, or used by, the Hindu community, or any section thereof as a place of religious worship; and

(*c*) "woman" means a female human being of any age.

Illegality of dedication of a woman as a devadasi.

3. The performance of any ceremony intended to dedicate or having the effect of dedicating a woman as a devadasi, whether such woman has or has not consented to the performance of such ceremony, is hereby declared unlawful and to be of no effect, any custom or rule of Hindu Law to the contrary notwithstanding.

Marriage by a devadasi.

4. No marriage contracted by a woman shall be invalid and no issue of such marriage shall be illegitimate by reason of such woman being a devadasi, any custom or rule of Hindu Law to the contrary notwithstanding.

Penalty.

5. Whoever, other than the woman to be dedicated, performs, permits, takes part in or abets the performance of, any ceremony referred to in section 3, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one year, or with fine or with both.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1933, Pt. V, pp. 1029-1031; for Report of the Select Committee, *see ibid* 1934, Pt. V, pp. 62-65; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1933 and 1934, Vols. XXXVIII, XXXIX and XL.

Release of land from liability for performance of service.

6. (*1*) Notwithstanding any adjudication or settlement made under the Bombay Rent-free Estates Act, 1852, the Exemptions from Land-revenue (No. 1) Act, 1863, and the Exemptions from Land-revenue (No. 2) Act, 1863, or rules made thereunder, or the terms of any grant made or sanad issued by [1][or on behalf of the Crown], when lands are assigned as emoluments for the performance by a devadasi of any services as such, the Collector shall, after holding such inquiry as may be prescribed, by order in writing, direct that the land shall be released from liability for performance of such services and that there shall be paid by the holder of such land in lieu of such services such rent as the Collector shall determine in the prescribed manner: XI of 1852. Bom. II & VII of 1863.

Provided that if a woman who is a devadasi at the time when this Act comes into force, is the holder of such land or performs services as a devadasi for which such land is assigned and appears at such inquiry or gives notice in the prescribed manner and objects to the release of the land and the payment of rent under the provisions of this section the Collector shall pass orders directing that the land shall not be released and rent shall not be payable under this section during the lifetime of such devadasi.

(*2*) Rent directed to be paid under sub-section (*1*) shall, when the performance of such services is for the benefit of a Hindu deity, idol, object of worship, temple or other religious institution, be payable by the holder to or on account of such deity, idol, object of worship, temple or other religious institution and in other cases to [2][the Crown for the purposes of the Province].

Explanation.—Land shall have the same meaning as defined in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

Power to make rules

7. (*1*) [3][The Provincial Government] may make rules generally for the purpose of carrying out the provisions of this Act and in particular for the manner in which the Collector shall hold an inquiry and determine the rent under section 6 and the manner in which notice of objection shall be given under the said section.

(*2*) The rules to be made under this section shall be subject to the condition of previous publication.

(*3*) Rules made under this section shall be laid [4][before each of the Chambers of the Provincial Legislature] at the session [5][thereof] next following and shall be liable to be modified or rescinded by a resolution [6][in which both the Chambers concur], and such rule shall, after notification in the [7][*Official Gazette*], be deemed to have been modified or rescinded accordingly:

Provided that when, in the opinion of [3][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of the Act, [3][the Provincial Government] may, by notification in the [7][*Official Gazette*], declare that the modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

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[1] The words "or on behalf of the Crown" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "the Crown for the purposes of the Province" were substituted for the word "Government", *ibid.*

[3] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[4] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[5] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[6] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

[7] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

THE BOMBAY NURSES, MIDWIVES AND HEALTH VISITORS REGISTRATION ACT, 1935.

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BOMBAY ACT No. VII OF 1935.[1]

[THE BOMBAY NURSES, MIDWIVES AND HEALTH VISITORS REGISTRATION ACT, 1935.]

[*30th April 1935.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to provide for the registration and better training of nurses, midwives and health visitors in the Presidency of Bombay.

WHEREAS it is expedient to provide for the registration and better training of nurses, midwives and health visitors in the Presidency of Bombay; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6, Geo. V, c. 61.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935.

(*2*) It shall extend to the whole of the Presidency of Bombay, excluding Sind.

(*3*) It shall come into force on such date as the [2][Provincial Government] may, by notification in the [3][*Official Gazette*], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "affiliated institution" means an institution for the nursing of the sick, maternity or child welfare, which may be affiliated to the Council in accordance with the by-laws;

(*b*) "by-law" means a by-law made by the Council under section 23;

(*c*) "Council" means the Bombay Nurses, Midwives and Health Visitors Council, constituted under section 3;

(*d*) "institution" includes any association which maintains or controls a nursing establishment;

(*e*) "nurse" includes a male nurse;

(*f*) "prescribed" means prescribed by rules;

(*g*) "register" means a register maintained under section 11 and the expressions "registered" and "registration" shall be construed accordingly;

(*h*) "registered medical practitioner" means a person registered under the Bombay Medical Act, 1912;

Bom. VI of 1912.

(*i*) "rule" means a rule made by the [2][Provincial Government] under section 22.

Establishment, incorporation and constitution of the Council.

3. (*1*) The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], establish a Council to be called "the Bombay Nurses, Midwives and Health Visitors Council" for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate, and have perpetual succession and a common seal and may, by the said name, sue and be sued.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Pt. V, pp. 62—65 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vol. XLI.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(2) The Council shall consist of the following twenty-one members, namely :—

(a) as *ex-officio* members,

(i) the Surgeon-General with the Government of Bombay;

(ii) the Director of Public Health for the Government of Bombay;

(iii) the Lady Superintendent, Cama and Albless Hospitals, Bombay;

(iv) the Lady Superintendent, St. George's Hospital Nursing Association, Bombay;

(v) the Lady Superintendent, Sir David Sassoon and Jacob Sassoon Hospitals, Poona;

(vi) the Sister Superior, Jamsetji Jeejeebhoy Hospital, Bombay;

(vii) the Lady Superintendent, King Edward Memorial Hospital, Bombay;

(viii) the Lady Superintendent, Nowrosji Wadia Maternity Hospital, Bombay, and the Lady Superintendent, Jerbai Wadia Children's Hospital, Bombay, in rotation;

(b) as elected members,

(i) five persons to be elected by the affiliated institutions in the City of Bombay;

(ii) one person to be elected by the affiliated institutions in the Northern Division;

(iii) one person to be elected by the affiliated institutions in the Central Division;

(iv) one person to be elected by the affiliated institutions in the Southern Division;

(v) two registered medical practitioners, one of whom shall be a woman, to be elected by the Bombay Medical Council;

(c) as nominated members—

one registered nurse, one registered midwife and one registered health visitor to be nominated by the [1][Provincial Government]:

Provided that, in the case of the first constitution of the Council under this Act, the [1][Provincial Government] shall appoint—

(i) the eight persons eligible for election under clause (b) (i), (ii), (iii) and (iv), to be members and such persons shall be deemed to have been elected members under each of the said clauses, respectively, and

(ii) one nurse, one midwife and one health visitor, having such qualifications as the [1][Provincial Government] may deem proper to be members and such nurse, midwife and health visitor shall be deemed to have been nominated under clause (c).

(3) The Surgeon-General with the Government of Bombay shall *ex-officio* be the President, and the Vice-President of the Council shall be elected from among the members of the Council and shall hold office for one year or until the election of his successor.

ppointment f members i default of ection.

4. If any of the institutions referred to in clause (b) of sub-section (2) of section (3) does not, by such date as may be prescribed, elect a person to be a member of the Council, the [1][Provincial Government] shall, by order in writing, appoint to the vacancy a person qualified for election thereto; and the person so appointed shall be deemed to be a member of the Council as if he had been duly elected by the said institution.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

5. The members of the Council, other than the *ex-officio* members specified in sub-clauses (*i*) to (*vii*) of clauses (*a*) of sub-section (*2*) of section 3, shall hold office for a period of five years or for such less period as the [1][Provincial Government] may prescribe in this behalf: Period of office of members.

Provided that an out-going member shall continue in office until the election or nomination of his successor as the case may be.

6. When a vacancy occurs in the office of a member of the Council through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the manner prescribed. Any person elected or nominated to fill a casual vacancy shall, notwithstanding anything contained in section 5, hold office only so long as the member in whose place he is elected or nominated would have held office if the vacancy had not occurred. Vacancies.

7. If a vacancy in the office of a member of the Council has occurred, the continuing members thereof shall act as if no vacancy had occurred, and no act or proceeding of the Council shall be deemed invalid merely by reason of a vacancy in the Council or of a defect in the election or nomination of a person acting as a member of the Council. Vacancy not to affect proceedings.

8. No person shall be a member of the Council— Disqualifications.

(*a*) who has been sentenced by a criminal court for an offence punishable with imprisonment for a term exceeding three months or to transportation, such sentence not having been subsequently reversed, quashed or remitted, unless he has by order, which the [1][Provincial Government] is hereby empowered to make in this behalf, been relieved from the disqualification arising on account of such sentence, or

(*b*) who is an undischarged insolvent, or

(*c*) who has been adjudicated by a competent court to be of unsound mind, or

(*d*) whose name has been removed from the register.

9. (*1*) If any member, during the period for which he has been elected or nominated— Disabilities from continuing as member.

(*a*) absents himself without excuse, sufficient in the opinion of the Council, from three consecutive ordinary meetings of the Council; or

(*b*) is absent out of India for a period exceeding eight consecutive months; or

(*c*) becomes subject to any of the disqualifications specified in section 8; or

(*d*) having been elected by the Bombay Medical Council, ceases to be a registered medical practitioner,

the President of the Council shall forthwith report the fact to the [1][Provincial Government], who shall thereupon, by order in writing, declare his seat to be vacant.

(*2*) If any question arises whether a vacancy has occurred under sub-section (*1*), the orders of the [1][Provincial Government] shall be final for the decision of such question.

10. The Council may permit any member to absent himself from the meetings of the Council for any period not exceeding six months. Leave of absence to members.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

Maintenance of register.

11. The Council shall maintain a register of—

(*i*) nurses,

(*ii*) midwives, and

(*iii*) health visitors,

in such forms, containing such particulars, and divided into such parts as may be prescribed.

Persons entitled to registration.

12. Persons who have undergone such courses of training, have passed such examinations and who fulfil such other conditions as may be prescribed, shall, on payment of the prescribed fee and on making an application in the prescribed form, be entitled to registration :

Provided that nurses and midwives who are at the commencement of this Act enrolled on the registers maintained by the Bombay Presidency Nursing Association shall be entitled to have their names transferred, according to their qualifications, to the appropriate registers maintained under section 11.

Refusal of registration, and removal and re-entry of names.

13. (*1*) Subject to such conditions as may be prescribed, the Council may, after giving an opportunity to the person concerned to be heard in his defence and to appear, and after holding an enquiry in the prescribed manner, refuse to enter in the register the name of any person, or may order the removal of the name of such person from the register.

(*2*) The order passed under sub-section (*1*) shall be in writing, and shall be served on the person concerned in the prescribed manner.

(*3*) The Council may direct that the name of any person against whom an order under sub-section (*1*) has been passed shall be entered or re-entered in the register, as the case may be.

Appeal from order under section 13.

14. (*1*) Any person, aggrieved by any order of the Council under section 13, may, within three months from the date on which such order is served, appeal against such order to the [1][Provincial Government].

(*2*) The order of the [1][Provincial Governent] on any such appeal shall be final.

Institutions for training nurses, midwives or health visitors to be recognised by Council.

15. (*1*) The institutions which are approved and recognised by the Council after inspection by its representative shall be competent to train nurses, midwives or health visitors, and to send them for examination for the qualifying certificates of the Council.

(*2*) The Council may withdraw recognition from any such institution after its inspection by a representative of the Council. The order of such withdrawal shall be in writing and shall be served in the prescribed manner.

Appeal against refusal to recognise institutions under section 15.

16. Any person aggrieved by the refusal of the Council to approve and recognise any institution as competent to train nurses, midwives or health visitors may appeal, within three months from the date of such refusal, to the [1][Provincial Government] against such order of refusal. The decision of the [1][Provincial Government] on any such appeal shall be final.

Removal of names from register on notice of death.

17. Every Registrar of Births and Deaths, who receives notice of the death of any person whose name he knows to be or has reason to believe is entered in any register, shall forthwith transmit by post to the Council a certificate of registration of such death signed by him and stating the time and place of death ; and thereupon the name of such person shall be removed from the register.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

18. Any person who—

Penalty for dishonest use of certificates.

(*a*) dishonestly makes use of any certificate of registration issued under the provisions of this Act to him or to any other person;

(*b*) procures or attempts to procure registration under the provisions of this Act by making or producing, or causing to be made or produced any false or fraudulent declaration, certificate or representation, whether in writing or otherwise, or

(*c*) wilfully makes or causes to be made any false representation in any matter relating to the register or certificates issued under the provisions of this Act,

shall be punishable with fine not exceeding Rs. 250.

19. Any person who, not being a registered nurse, midwife or health visitor, takes or uses the name or title of registered nurse, midwife or health visitor, or uses any name, title, description, prescribed uniform, object or sign-board, with the intention that it may be believed, or with the knowledge that it is likely to be believed that such person is a registered nurse, midwife or health visitor, shall be punishable with fine not exceeding Rs. 100.

Penalty for unlawful assumption of title of registered nurse, midwife or health visitor.

20. No court other than a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence under this Act.

Court competent to try offences under the Act.

21. The funds of the Bombay Presidency Nursing Association are hereby transferred to the Council, and shall hereafter vest in the Council for the purposes of this Act.

Funds of the Bombay Presidency Nursing Association to be vested in the Council.

22. (*1*) The [1][Provincial Government] may, after previous publication, make rules to carry out all or any of the purposes of this Act.

Power of Provincial Government to make rules.

(*2*) In particular and without prejudice to the generality of the fore-going power, they may make rules—

(*a*) prescribing the period of less than five years for which a member of the Council may hold office under section 5;

(*b*) prescribing the manner in which elections and nominations of members of the Council and the election of the Vice-President shall be made and casual vacancies shall be filled under section 6;

(*c*) prescribing the form in which a register shall be kept, the particulars to be entered in such register, and the parts in which such register shall be divided under section 11;

(*d*) prescribing the courses of training and examinations entitling a person to registration, the fee payable on application for registration, the form in which such applications shall be made, and the conditions subject to which names shall be entered in the register under section 12;

(*e*) prescribing the causes for which, the conditions under which and the manner in which the names of nurses, midwives and health visitors may be removed or re-entered in the register under section 13, and the manner in which the order of removal or refusal shall be served on such persons;

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

(*f*) the manner in which an order of withdrawal of recognition of an institution shall be served under section 15;

(*g*) prescribing the fees payable in respect of an appeal under section 14 or 16; and

(*h*) any matter which is to be or may be prescribed.

(*3*) All rules made by the [1][Provincial Government] under this section shall be laid [2][before each of the Chambers of the Provincial Legislature] for one month previous to the session thereof, and shall be liable to be rescinded or modified by a resolution [3][in which each of the Chambers concur during] its next session; such rule shall, after notification in the [4][*Official Gazette*], be deemed to have been modified or rescinded accordingly;

Provided that when, in the opinion of the [1][Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][Provincial Government] may, by notification in the [4][*Official Gazette*], declare that the modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Power of the Council to make by-laws.

23. (*1*) The Council may make by-laws, not inconsistent with this Act or the rules—

(*a*) for regulating the compilation, maintenance and publication of the register and the conditions of admission to the register;

(*b*) for regulating the conduct of any examinations which may be prescribed as a condition of admission to the register and any matters ancillary to or connected with such examinations, including the courses of training which the candidates appearing for the examinations shall undergo;

(*c*) for the approval of any institution for the purpose of such training and the granting of diplomas to candidates passing the examinations;

(*d*) for regulating the conditions under which institutions for nursing the sick, maternity or child welfare may be affiliated to the Council;

(*e*) for appointing a Registrar and such other servants as may be necessary;

(*f*) for regulating the pay, pension, conduct and other conditions of service of persons appointed under clause (*e*);

(*g*) for establishing a provident fund for the benefit of the employees of the Council and of affiliated institutions and regulating its administration;

(*h*) for regulating and supervising the practice of their profession by registered nurses, midwives and health visitors;

(*i*) for regulating the publication of the names of registered nurses, midwives and health visitors and their residences;

(*j*) for regulating the conditions under which such nurses, midwives and health visitors registered in other provinces or other countries may be admitted to the register, on such other provinces and countries granting reciprocal registration to persons registered on the register of the Council;

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[1] The words "Provincial Government" were substituted for the words "Local Government", by the Adaptation of Indian Laws Order in Council.

[2] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "on the table of the Bombay Legislative Council", *ibid.*

[3] The words "in which each of the Chambers concur during" were substituted for the words "of the said Council tabled at", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

(*k*) for regulating the summoning of meetings of the Council and its proceedings;

(*l*) for determining the manner in which all fees levied under this Act and all moneys received by the Council shall be accounted for, audited and applied for the purposes of this Act, and for regulating the expenditure of the Council generally;

(*m*) for prescribing the travelling and other expenses payable to the members of the Council or of committees; and

(*n*) generally for the provision of any matters in respect of which the Council considers provision should be made for the purposes of this Act.

(*2*) No by-law made by the Council shall come into force until it has been confirmed by the [1][Provincial Government], with or without modification or amendment.

(*3*) All by-laws made under this section shall be published in the [2][*Official Gazette*].

Protection of persons acting in good faith, under the Act, rules or by-laws.

24. No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

Control.

25. (*1*) If at any time it shall appear to the [1][Provincial Government] that the Council has failed to exercise, or has exceeded or abused any of the powers conferred upon it by or under this Act, or has failed to perform any of the duties imposed upon it by or under this Act, the [1][Provincial Government] may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Council, and if the Council fails to remedy such default, excess or abuse, within such time as the [1][Provincial Government] may fix in this behalf, the [1][Provincial Government] may dissolve the Council and cause all or any of the powers and duties of the Council to be exercised and performed by such person and for such period as it may think fit and thereupon the funds and property of the Council shall vest in the [1][Provincial Government] for the purposes of this Act until a new Council shall have been constituted under section 3.

(*2*) When the [1][Provincial Government] has dissolved the Council under sub-section (*1*), it shall take steps as soon as may be convenient to constitute a new Council under section 3 and thereupon the property and funds referred to in sub-section (*1*) shall revest in the Council so constituted.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" *ibid.*

THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1935.

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BOMBAY ACT No. XVIII OF 1935.[1]

[THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1935.]

[*23rd September 1935.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend the Mussalman Wakf Act, 1923, in its application to the Presidency of Bombay.

XLII of 1923. WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923, in its application to the Presidency of Bombay for the purposes hereinafter appearing;

5 & 6 Geo. V, c. 61. AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the sanction of the Governor under section 80C of the said Act have been obtained for the passing of this Act;

It is hereby enacted as follows :—

1. This Act may be called the Mussalman Wakf (Bombay Amendment) Act, 1935. Short title.

XLII of 1923. **2.** After the preamble of the Mussalman Wakf Act, 1923, hereinafter called the principal Act, the heading "Part I" shall be inserted. Heading after the preamble of XLII of 1923.

3. In section 2 of the principal Act,— Amendment of section 2 of XLII of 1923.

(*a*) after clause (*b*), the following shall be inserted, namely :—

"(*bb*) 'District' means a district constituted under section 3 of the Bombay Civil Courts Act, 1869, and includes the City of Bombay."

XIV of 1869.

(*b*) after clause (*e*), the following shall be added, namely :—

"(*ee*) 'Wakf Committee' means a committee constituted under section 6L."

4. After section 2 of the principal Act, the heading "Part II" shall be inserted. Heading after section 2 of XLII of 1923.

5. After section 6 of the principal Act, the following parts shall be inserted, namely :— Insertion of Parts III to VI in XLII of 1923.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 28-29; for report of the Select Committee, *see ibid.*, pp. 91-96, 113-117 and 135-136 and for proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vols. XLI and XLII.

"PART III.

Powers of the Court to call for Particulars and Statement of Accounts.

Power of court to call upon the mutawalli to submit statement.

6A. (*1*) Notwithstanding anything contained in section 3, it shall be competent to the court, on failure of a mutawalli to furnish a statement as required under the said section, to require the mutawalli to furnish, within such time as the court shall fix, a statement containing all or any of the particulars referred to in the said section, including a copy of the deed or instrument, if any, creating the wakf.

(*2*) The provisions of section 4 shall apply to a statement furnished under this section as if such statement had been furnished under section 3.

Power of court to require statement of accounts at any time.

6B. (*1*) Notwithstanding anything contained in section 5, it shall be competent to the court, on failure of a mutawalli to furnish a statement of accounts as required under the said section, to require the mutawalli to prepare and furnish, within such time as the court may fix, a statement of accounts of the nature described in the said section and for such period as the court may think fit.

(*2*) The provisions of section 6 shall apply to any statement of accounts required to be furnished under this section as if such statement of accounts were a statement of accounts furnished under section 5.

PART IV.

Powers of the Court to Enquire.

Power of court to enquire.

6C. (*1*) The court may, either on its own motion or upon the application of any person claiming to have an interest in a wakf, hold an enquiry in the prescribed manner at any time to ascertain—

(*i*) whether a wakf is a wakf to which this Act applies;

(*ii*) whether any property is the property of such wakf and whether the whole or any substantial portion of the subject matter of such wakf is situate within the local limits of the jurisdiction of the court; and

(*iii*) who is the mutawalli of such wakf.

(*2*) If it comes to the knowledge of the court that a suit has been instituted in any civil court in regard to any of the matters mentioned in sub-section (*1*), it shall stay the enquiry so far as it relates to, or is likely to be affected by, the court's findings or order in regard to such matters, until the suit is finally decided in that court.

(*3*) The court shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, it shall proceed with the enquiry in regard to such matters, if any, as may not have been decided in such suit.

(*4*) On completion of the enquiry provided for in sub-sections (*1*) and (*3*), the court shall record its findings as to the matters mentioned in the said sub-sections, except such matters as may have been decided in the aforesaid suit.

(*5*) Save as provided in this section, the court shall not, when acting under this section, try or determine any question of the title of any person claiming adversely to the wakf.

PART V.

Registration of Wakfs, Wakf Accounts and Wakf Administration Funds.

Registration of Wakfs.

6D. (*1*) The court shall, after the submission of a statement under section 3 or section 4 or section 6A and an enquiry, if necessary, held under section 6C, or merely after and enquiry held under section 6C, record, in such form as may be prescribed in a register called the Register of Wakfs, the following particulars :—

(*a*) a description of the wakf property sufficient for the identification thereof;

(*b*) the gross annual income from such property;

(*c*) the gross amount of such income which has been collected during the five years preceding the date on which the statement is furnished, or during the period which has elapsed since the creation of the wakf, whichever period is shorter;

(*d*) the amount of the Government revenue and cesses and of all rents annually payable in respect of the wakf property;

(*e*) an estimate of the expenses annually incurred in the realisation of the income of the wakf property, based on such details as are available of any such expenses incurred within the period to which the particulars under clause (*c*) relate;

(*f*) the amount set apart under the wakf for—

(*i*) the salary of the mutawalli and allowances to individuals;
(*ii*) purely religious purposes;
(*iii*) charitable purposes;
(*iv*) any other purposes;

(*g*) the name of the mutawalli; and

(*h*) such other particulars as may be prescribed.

(*2*) Statements, if any, furnished under sections 3, 4 and 6A shall be filed with the said register of wakfs.

Amendment of entries in Register of Wakfs.

6E. (*1*) When any change occurs in any of the particulars recorded in the Register of Wakfs, the mutawalli shall, within three months of the occurrence of such change, report to the court such change in the prescribed form, accompanied by the prescribed fee. The provisions of sections 3 and 4 shall, so far as may be, apply to any such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Wakfs or ascertaining any change which may occurred in such register, the court may hold an enquiry in the prescribed manner. The provisions of section 6C shall, so far as may be, apply to any such inquiry.

(*3*) If the court, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section (*2*), or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Wakfs with regard to a wakf, it shall amend in the prescribed manner the entry or entries affected by such change and shall file the report furnished under sub-section (*1*) along with statement, if any, relating to the said wakf filed under section 3.

Entries in the Register of Wakfs and findings recorded under section 6C to be final subject to section 6G.

6F. The entries made by the court in the Register of Wakfs and the findings recorded under section 6C shall, subject to the provisions of section 6G, be final for the purposes of this Act.

Making or amendment of entries in Register of Wakfs by order of Court.

6G. A civil court of competent jurisdiction deciding any question relating to any wakf may direct that the court shall make such entries or amendments of entries in the Register of Wakfs relating to the said wakf as are consequential upon its decision, and the court shall make such entries or amendments of such entries accordingly.

Maintenance of accounts and their audit.

6H. (*1*) Every mutawalli of a wakf in respect of which an entry has been recorded in the Register of Wakfs shall keep regular accounts of all moveable and immovable property received, and of all payments and alienations made and incumbrances created by him on behalf of the wakf of which he is the mutawalli. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(*2*) The account shall be balanced on the thirty-first day of March in each year, and shall be examined and audited annually or at such other intervals, and in such manner as may be prescribed and by the persons referred to in section 6.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers and other documents and records in the possession and under the control of the mutawalli:

Provided that, if it is proved to the satisfaction of the court that the gross annual income of any particular wakf is less than two hundred rupees, the court may by order in writing exempt such wakf from the provisions of this section.

Annual contribution from wakfs.

6I. Every wakf shall, for the purpose of meeting the charges and expenses incidental to the registration, superintendence, administration and control of wakfs, the maintenance of the registers of wakfs, the scrutiny and audit of accounts of wakfs, the institution and defence of suits and proceedings relating to wakfs, and generally carrying into effect the purposes of this Act, be liable to pay to the Wakf Administration Fund of the district concerned annually such contribution, on such date and in such manner as may be prescribed:

Provided that the [1][Provincial Government] may, by rules made in this behalf, exempt from the provisions of this section any particular wakf or class of wakfs.

Wakf Administration Fund.

6J. For each district there shall be created a fund to be called the Wakf Administration Fund of the district concerned, and there shall be placed to the credit thereof the following sums, namely:—

(*a*) any fee which may be levied under this Act,

(*b*) contributions under section 6I,

(*c*) any sums received by the Wakf Administration Fund from private sources,

(*d*) any sums allotted by [2][any Government] or by any local authority to the Wakf Administration Fund.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "any Government" were substituted for the word "Government", *ibid.*

6K. The Wakf Administration Fund of a district shall be under the control and management of the court and shall be applicable to the payment of charges for and expenses incidental to the registration, superintendence, administration and control of wakfs, the maintenance of the Register of Wakfs, the scrutiny and audit of accounts of wakfs, the institution and defence of suits and proceedings relating to wakfs, and generally carrying into effect the purposes of this Act. Application of Wakf Administration Fund.

PART VI.

Supervision and Control.

6L. (*1*) There shall be constituted in each district a wakf committee to advise and assist the court in all matters relating to the registration, superintendence, administration and control of wakfs. Constitution and appointment of Wakf Committee.

(*2*) The Committee shall consist of :—

(*a*) the members of the Indian and [1][Provincial Legislatures],

(*b*) two members elected in the prescribed manner by the mutawallis of all wakfs in the district registered under the Act,

(*c*) two members elected in the prescribed manner by the members of each district local board in the district professing the Mussalman faith from among their number,

(*d*) one member elected in the prescribed manner by the members professing the Mussalman faith of each municipality in the district constituted under the Bombay District Municipal Act, 1901, Bom. III of 1901.

(*e*) two members elected in the prescribed manner by the members professing the Mussalman faith of each municipality in the district constituted under the City of Bombay Municipal Act, 1888, the City of Karachi Municipal Act, 1933, or the Bombay Municipal Boroughs Act, 1925, and Bom. III of 1888. Bom. XVII of 1933. Bom. XVIII of 1925.

(*f*) such other members not exceeding one-fourth of the total number of the members of the Committee as the [2][Provincial Government] may nominate :

Provided that no person who does not ordinarily reside in the district or does not profess the Mussalman faith shall be eligible to be a member of the Committee.

6M. (*1*) It shall be competent to the court to refer at any time to the Wakf Committee or any three or more members thereof, for advice, opinion, enquiry, report or recommendation, within such time as the court may direct, any matter relating to the registration, superintendence, administration and control of wakfs, and in particular any matter relating to— Functions of Wakf Committee.

(*a*) the conduct of a mutawalli or a trustee in the administration of a wakf or his fitness to continue as a mutawalli or a trustee,

[1] The words "Provincial Legislatures" were substituted for the words "Local Legislatures", by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "Local Government" *ibid.*

(*b*) the settlement, cancellation or alteration of a scheme for the administration of a wakf, or

(*c*) the application of the funds of a wakf or any surplus thereof.

(*2*) When the court has referred any of the matters mentioned in sub-section (*1*) to a wakf committee or any members thereof for advice, opinion, enquiry, report or recommendation, and the committee or the members thereof, as the case may be, have, either unanimously or by a majority, made their recommendation in relation to the matter referred to them, the court may pass orders as it thinks fit after giving due consideration to such recommendation—

(*i*) suspending, removing or dismissing a mutawalli or trustee,

(*ii*) appointing a new mutawalli or trustee,

(*iii*) settling, cancelling or altering a scheme for the administration of a wakf,

(*iv*) directing the application, investment or deposit of the funds of a wakf or any surplus thereof in a particular manner or to a particular purpose,

(*v*) generally for carrying out the purposes of the Act:

Provided that nothing in this section shall be deemed to authorize the court to pass any order which is inconsistent with the objects and purposes of the wakf:

Provided further that no order under this section shall be passed to the prejudice of any mutawalli or trustee without giving such mutawalli or trustee an opportunity to be heard.

(*3*) For the performance of any of the duties under sub-section (*2*) the Wakf Committee or any members thereof to whom the court has referred any matter for advice, opinion, enquiry, report, or recommendation, the committee or such members thereof may by order in writing require—

(*a*) the production of any document necessary for the purpose;

(*b*) the attendance of any person for the purpose of giving evidence or for the production of any document referred to in clause (*a*).

(*4*) The provisions of sub-sections (*2*) and (*3*) of section 6C shall so far as may be, apply to any inquiry under sub-section (*1*) or (*2*).

Court's power to authorize members of Wakf Committee to institute suits, etc.

6N. Notwithstanding anything contained in section 92 of the Code of Civil Procedure, 1908, it shall be competent to the court, after such enquiry as it may think fit, (*a*) to authorize any one or more of the members of a Wakf Committee to institute or defend any suit or proceeding for the purposes of the protection or recovery of the property of a wakf or for the application of the property of a wakf to any public, charitable or religious purpose, and (*b*) to allocate from the Wakf Administration Fund such sums as may, in the opinion of the court, be necessary for the aforesaid purpose. V of 1908.

Inspection of wakf property, records and accounts.

6O. (*1*) It shall be competent to the court to direct one or more members of the Wakf Committee to undertake the inspection, in the prescribed manner, of the property, records and accounts of any wakf and to report to the court, within such time as the court may direct, the result of such inspection.

(*2*) It shall be competent to the court to employ upon such terms and conditions as may be prescribed such persons as may in the opinion of the court be necessary for carrying out the purposes of this Act and to pay them such remuneration from the Wakf Administration Fund as may be prescribed.

6P. It shall be competent to the court at any time to order a special audit of the accounts of a wakf by an accountant possessing the prescribed qualifications and to order the cost of such audit to be paid by the mutawalli from the income of the property of the wakf or out of the Wakf Administration Fund. Court's power to order special audit.

[1]6Q. There shall be published annually on such date as the [2][Provincial Government] may determine in the [3][*Official Gazette*] and in the principal vernacular of the district in a newspaper circulating therein a list of wakfs and a statement of the sums standing to the credit of the Wakf Administration Fund, under the signature of the court and in such form as the [2][Provincial Government] may prescribe." Publication of lists of wakfs.

6. After section 6Q inserted by this Act, into the principal Act, the heading "Part VII" shall be inserted. Insertion of a new heading after section 6Q.

7. In section 7 of the principal Act after the word and figure "section 4", the words and figures "section 6A or section 6B or section 6C or section 6E" shall be inserted. Amendment of section 7 of XLII of 1923.

8. In section 8 of the principal Act,— Amendment of section 8 of XLII of 1923.

(*a*) after the word and figure "section 4" the words and figures "or section 6A or section 6C or section 6E" shall be inserted; and

(*b*) after the word and figure "section 5" the words and figures "or section 6B or section 6C" shall be inserted.

9. In section 9 of the principal Act,— Amendment of section 9 of XLII of 1923.

(*a*) after the word and figure "section 4", the words and figures "or section 6A or section 6C or section 6E" shall be inserted;

(*b*) after the word and figure "section 5", the words and figures "or section 6B or section 6C" shall be inserted;

(*c*) after the word and figure "section 6", the words and figures "or section 6H or section 6P or any entry in the Register of Wakfs or any statement, notice, intimation, report, accounts or any document filed under this Act" shall be inserted.

10. After section 9 of the principal Act, the following shall be inserted, namely :— Insertion of new section after section 9 of XLII of 1923.

V of 1908 "9A. (*1*) The provisions of the Code of Civil Procedure, 1908, relating to— Provisions of Code of Civil Procedure to apply.

(*a*) the proof of facts by affidavits,

(*b*) the enforcing of the attendance of any person and his examination on oath,

(*c*) the enforcing of the production of documents, and

(*d*) the issuing of commissions

shall apply to all proceedings held by the court under this Act and provisions relating to the service of summonses shall apply to the service of notices thereunder.

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[1] The words "if the Provincial Government so directs" have been inserted after the words "*Official Gazette and*" by Bom. 10 of 1944, s. 2, read with Bom. 25 of 1948, s. 3.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "Local Official Gazette", *ibid.*

(*2*) The provisions of the said Code relating to the execution of decrees shall, so far as they are applicable, apply to the execution of orders passed by the court under this Act."

Heading after section 9A of this Act.

11. After section 9A inserted by this Act, into the principal Act, the heading " Part VIII " shall be inserted.

Amendment of section 10 of XLII of 1923.

12. In section 10 of the principal Act—

(*a*) after the word and figure " section 4 ", the words and figures " or section 6A or section 6C or section 6E " shall be inserted ;

(*b*) after the word and figure " section 5 ", the words and figures " or section 6 or section 6C " shall be inserted ;

(*c*) after the word " accounts " where it occurs for the first time, the words, figure and letter " or who is required by section 6H to keep regular accounts " shall be inserted ;

(*d*) after the word " document " where it occurs for the second time, the words "or to keep regular accounts " shall be inserted ;

(*e*) after the word " statement " where it occurs for the forth time the words " or keeps accounts " shall be inserted.

Insertion of new sections after section 10 of XLII of 1923.

13. After section 10 of the principal Act the following shall be inserted namely :—

Penalty for non-compliance with any other order.

" 10A. (*1*) If any person fails to comply with any order passed by the Court or by the Wakf Committee or any member thereof under or in pursuance of the provisions of this Act, such person shall, if such failure to comply is not punishable under any of the sections of this Act, be on conviction punishable with fine which may extend to one thousand rupees.

(*2*) A Criminal Court may, in passing an order, of conviction for an offence sub-section (*1*), specify the period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him, and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

Provided that, if the person failing to comply with any direction issued by such court satisfies such court that there is good reason for his failure to do so and applies for an extension of the period specified under this section, such court may if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

Cognizance of offences.

10B. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the Court given in the prescribed manner.

(*2*) No Criminal Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try an offence under this Act.

Prosecution of, and suits against, persons acting in good faith.

10C. No suit or prosecution or other proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

10D. All sums due under this Act shall be recoverable as arrears of land revenue". Recovery of sums due under this Act.

14. (*1*) In sub-section (*2*) of section 11 of the principal Act— Amendment of section 11 of XIII of 1923.

(*a*) in clause (*a*) after the words and figure " section 3 ", the words and figures " or under section 6A or section 6C " shall be inserted ;

(*b*) for clause (*b*) the following shall be substituted, namely :—

" (*b*) the manner in which notice to be published under section 4 and the fees to be charged upon application made to the court under sub-section (*1*) of section 4 or under section 6A or section 6B or section 6C " ;

(*c*) in clause (*c*) after the word and figure " section 5 ", the words and figures " or section 6B or section 6C " shall be inserted ;

(*d*) in clause (*d*) after the word and figure " section 6 ", the words and figures " or section 6H or section 6P " shall be inserted ;

(*e*) in clause (*e*), after the brackets and letter " (*e*) " the words " the manner of inspection and " shall be inserted ;

(*f*) after clause (*f*), the following shall be inserted, namely :—

"(*f1*) the manner in which subject to the provisions of section 9A an inquiry shall be held by the Court and the Wakf Committee under section 6C or 6M and the manner in which the parties shall be represented in such inquiry and the costs of such inquiry shall be borne,

(*f2*) the manner in which the Register of Wakfs shall be prepared and maintained under section 6D,

(*f3*) the form in which a change in any of the particulars recorded in the Register of Wakfs shall be reported and the amount of fee to accompany such report and the manner in which the inquiry shall be held and the entries in the Register of Wakfs shall be amended under section 6E,

(*f4*) the form in which the accounts shall be prepared, kept and furnished, the particulars to be entered therein, and the manner in which, and the interval at which such accounts shall be audited under section 6H,

(*f5*) the amount of contribution, the date on which and the manner in which it shall be paid and exemptions granted under section 61,

(*f6*) the appointment and remuneration of auditors appointed under the Act,

(*f7*) the management, custody, investment and disbursement of the Wakf Administration Fund,

(*f8*) the purpose for which a Wakf Administration Fund shall be applied under section 6K,

(*f9*) the number of members who shall constitute a Wakf Committee, the period of office of a Wakf Committee and the manner in which such committee shall hold its meetings and the procedure to be followed at their meetings,

(*f10*) the manner in which the inspection of the property, records and accounts of a wakf shall be carried out, the sum which shall be paid in respect of the costs of the members of the Wakf Committee undertaking such inspection, the terms and conditions on which persons shall be employed and the remuneration which shall be paid to such persons, under section 6O,

(*f11*) the qualifications of an accountant appointed under section 6P,

(*f12*) the form in which a list of wakfs shall be published under section 6Q."

(*2*) After sub-section (*2*) of section 11 of the principal Act, the following new sub-section shall be added, namely :—

"(*3*) Rules made under this section shall be laid [1][before each of the Chambers of the Provincial Legislature] at the session [2][thereof] next following, and shall be liable to be modified or rescinded by a resolution [3][in which both the Chambers concur] and such rule shall after notification in the [4][*Official Gazette*] be deemed to have been modified or rescinded accordingly :

Provided that when in the opinion of the [5][Provincial Government] such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [5][Provincial Government] may by notification in the [4][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded."

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[1] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[3] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

[4] The words "*Official Gazette*" were substituted for the words "Local Official Gazette", *ibid.*

[5] The words "Provincial Government" were substituted for the words "Local Government" *ibid.*

THE IDENTIFICATION OF PRISONERS (BOMBAY SECOND AMENDMENT) ACT, 1935.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Amendment of section 3 of Act XXXIII of 1920.
3. Amendment of section 4 of Act XXXIII of 1920.

BOMBAY ACT No. XXI OF 1935.[1]

[THE IDENTIFICATION OF PRISONERS (BOMBAY SECOND AMENDMENT) ACT, 1935.]

[*1st October 1935.*]

An Act to amend the Identification of Prisoners Act, 1920, in its application to the Presidency of Bombay.

XXX. III of 1920. 5 & 6 Geo. V, c. 61. WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to the Presidency of Bombay, for the purpose hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title. and extent.

1. (*1*) This Act may be called the Identification of Prisoners (Bombay Second Amendment) Act, 1935.

(*2*) It extends to the whole of the Presidency of Bombay.

Amendment of section 3 of Act XXXIII of 1920.

XXX. III of 1920. Bom. IV of 1902. **2.** In clause (*a*) of section 3 of the Identification of Prisoners Act, 1920, hereinafter called the said Act, after the word "punishable" the words and figures "under section [2]121 of the City of Bombay Police Act, 1902, or of any other offence punishable" shall be inserted.

3. [*Amendment of section 4 of Act XXXIII of 1920.*] *This amendment stands repealed in view of substitution of new section 4 by Bom. 15 of 1948, s. 2.*

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, p. 180; and for Proceedings in Council, *see* Bombay Legislative Council Debates, Vol. XLII.

[2] Section 121 of the City of Bombay Police Act, 1902, has been repealed by Bom. 23 of 1945 read with Bom. 53 of 1947, s. 2.

THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent und operation.
2. Application and saving.
3. Definitions.
4. Appointment of Registrars.
5. Obligation to furnish particulurs relating to public trusts.
6. Power of Registrar to hold inquiry.
7. Register of Public Trusts.
8. Amendment of entries in Register of Public Trusts.
9. Stay of inquiry or entry in Register.
10. Entries in Register of Public Trusts to be final subject to section 11.
11. Amendment of Register by order of Court.
12. Maintenance of accounts and their audit.
13. Inspection and grant of copies.
14. Annual contribution from public trusts.
15. Public Trusts Administration Fund.
16. Application of Public Trusts Administration Fund.
17. Special audit.
18. Publication of list of public trusts.
19. Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.
20. Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.
21. Penalty for failure to comply with the order of Registrar.
22. Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.
23. Cognizance of offences.
24. Registrars to be public servants.
25. Prosecution of persons acting in good faith.
26. Recovery of sums due under this Act.
27. Power of Provincial Government to make rules.

BOMBAY ACT No. XXV OF 1935.[1]

[THE BOMBAY PUBLIC TRUSTS REGISTRATION ACT, 1935.]

[*19th November 1935.*]

Amended by Bom. 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 10 of 1944*.
" " " 17 of 1945†.
" " " 65 of 1948.

An Act for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof.

WHEREAS it is expedient to provide for the registration of trusts created or existing for a public purpose of a religious or charitable nature and for the audit and filing of accounts of such trusts with a view to ensuring the better management thereof; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80-A and of the Governor required under section 80-C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

1. (*1*) This Act may be called the Bombay Public Trusts Registration Act, 1935. Short title, extent and operation.

(*2*) It extends to the whole of the Presidency of Bombay.

(*3*) [2][The Provincial Government] may, by notification in the [3][*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

2. (*1*) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Hindu community or any section of such community and, having an annual gross income of not less than Rs. 1,000. Application and saving.

(*2*) Subject to the provisions of sub-section (*3*), [2][the Provincial Government], on a motion of [4][either or both of the Chambers of the Provincial Legislature] or otherwise, may, after previous publication by notification in the [3][*Official Gazette*], direct that all or any of the provisions of this Act shall applly to any other public trust or class of public trusts.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 130-134, for report of the Select Committee, *see ibid.*, pp. 225-236, 253-257, 261-262 and 306-309 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vols. XLII and XLIII.

[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] The words "either or both of the Chambers of the Provincial Legislature" were substituted for the words "the Bombay Legislative Council", *ibid.*

*This Act was re-enacted by Bom. 25 of 1948, s. 3.

†This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*3*) The provisions of this Act shall not apply to public trusts to which the Mussalman Wakf Act, 1923, applies [1][or which are administered by local authorities]. XLII of 1923.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context—

(*1*) "Manager" means any person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(*2*) "Prescribed" means prescribed by rules made under this Act.

(*3*) "Public trust" means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(*4*) "Registrar" means an officer appointed under section 4 to exercise the powers and perform the duties of a Registrar of Public Trusts.

(*5*) "Rules" means rules made under section 27.

(*6*) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of 1882.

Appointment of Registrars.

4. [2][The Provincial Government] may appoint officers belonging to the judicial service not below the rank of a subordinate Judge of the second class or a Judge of a Court of Small Causes as Registrars of Public Trusts for the purposes of this Act and may define the district or area within which each of them shall exercise his powers and perform his duties.

Obligation to furnish particulars relating to public trusts.

5. (*1*) Every manager of the property of a public trust shall, in the case of—

(*i*) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

(*ii*) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust,

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars :—

(*a*) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

(*b*) the description of the trust property, both moveable and immovable, sufficient for the identification thereof, and the approximate value thereof,

(*c*) the gross average annual income of such property estimated on the income of the three years preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(*d*) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (*c*) relate,

(*e*) any other particulars as may be prescribed.

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[1] These words were added by Bom. 65 of 1948, s. 2.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) A copy of the deed or instrument creating the public trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

(*3*) Such statement shall be signed by the manager or his agent specially authorised in this behalf.

(*4*) Every person signing the statement shall verify it in the manner prescribed.

6. (*1*) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain— Power of Registrar to hold inquiry.

(*i*) whether a trust is a public trust,

(*ii*) whether any property is the property of such trust,

(*iii*) whether the whole or any substantial portion of the subject matter of the trust is situate within his jurisdiction,

(*iv*) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(*v*) the origin, nature and object of such trust,

(*vi*) the amounts of gross average annual income and expenditure of such trust, and

(*vii*) any other such particulars as may be prescribed under sub-section (*1*) of section 5.

(*2*) If it comes to the Registrar's knowledge that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (*1*), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(*3*) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(*4*) On completion of the enquiry provided for in sub-sections (*1*) and (*3*), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

(*5*) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters :— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath,

(*b*) compelling the production of documents and material objects,

(*c*) issuing commissions for the examination of witnesses,

(*d*) proof of facts by affidavits.

(*6*) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

Register of Public Trusts.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the Register of Public Trusts and shall file the statement, if any.

Amendment of entries in Register of Public Trusts.

8. (*1*) When any change occurs in any of the particulars recorded in the Register of Public Trusts, the manager shall, within three months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(*3*) If the Registrar, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section[1] [(*2*),] or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (*1*) along with the statement, if any, relating to the said trust filed under section 5.

Stay of inquiry or entry in Register.

9. (*1*) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Public Trusts by the Registrar of any other district or area.

(*2*) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [2][the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

Entries in Register of Public Trusts to be final subject to section 11.

10. Entries made by the Registrar in the Register of Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

Amendment of Register by order of Court.

11. A Civil Court of competent jurisdiction deciding any question relating to any registered public trust shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Public Trusts relating to the said trust in accordance with its decision.

Maintenance of accounts and their audit.

12. (*1*) Every manager of a public trust in respect of which an entry has been recorded in the Register of Public Trusts under section 6 shall keep regular accounts of all moveable and immovable property, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust

[1] The figure "2" was substituted for the figure "1" by Bom. 24 of 1936, s. 2, Schedule.
[2] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

(*2*) The accounts shall be balanced each year on the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, and shall be examined and audited annually in such manner and by a person who is the holder of a certificate granted under section 144 of the Indian Companies Act, 1913, or is a member of any institution or association the members of which have been declared under that section to be entitled to act as auditors of companies throughout British India or by such persons as may be prescribed.

VII of 1913.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(*4*) Within six months after the thirty-first day of March, or such other day, as may be fixed by the Registrar in any particular case, of the year for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto :

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

Exception.—Nothing in this section shall apply—

(*1*) to any public trust

(*a*) which is governed by the [1]Religious Endowments Act, 1863,

XX of 1863.

(*b*) in respect of which a scheme has been settled under section 92, Civil Procedure Code, 1908, or

V of 1908.

(*2*) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator-General or the Official Trustee.

13. Subject to such conditions and on payment of such fee, as may be prescribed, the Registrar shall on application by— Inspection and grant of copies.

(*a*) any person who appears to him to have an interest in any entry or portion thereof in the Register of Public Trusts or any statement, notice, intimation, account, audit note or any other document filed under this Act, or

(*b*) any other person permitted by the Registrar in this behalf—

(*i*) allow such person inspection of the entries in such Register or of such document, or

(*ii*) furnish such person with copies certified under his hand, of any entry or portion thereof in such Register or of any of such documents.

14. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed : Annual contribution from public trusts.

[1] *See* Central Acts.

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

Explanation.—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

Public Trusts Administration Fund

15. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely :—

(*a*) any fees which may be levied under section 5, 8 or 13,

(*b*) contributions under section 14,

(*c*) any sums received by the Public Trusts Administration Fund from private sources,

(*d*) any sums allotted by [1][any Government] or by any local authority to the Public Trusts Administration Fund.

Explanation.—For the purpose of this section [2][the Greater Bombay] shall be deemed a district.

Application of Public Trusts Administration Fund.

16. The Public Trusts Administration Fund of a district or any area as created under section 15 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

Special audit.

17. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee from the income of the property of the public trust or out of the Public Trusts Administration Fund.

Publication of list of public trusts.

18. Every Registrar shall publish annually under his signature, in the [3][*Official Gazette*] and [4][if the Provincial Government so directs] in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Public Trusts Administration Fund, in such form and on such date as [5][the Provincial Government] may prescribe.

Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.

19. If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

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[1] The words "any Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the original by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 10 of 1944, s. 3, read with Bom. 25 of 1948, s. 3.

[5] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

20. If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

21. If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100.

Penalty for failure to comply with the order of Registrar.

22. Any Court may, in passing an order of conviction and sentence for any of the offences under section 19, 20 or 21, specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified :

Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failare to do so and applies for extension of the period specified under this section, the Court may if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

23. (*1*) No prosecution under this Act shall be instituted except by or with the previous sanction of the Registrar given in the prescribed manner within whose jurisdiction the whole or a substantial portion of the subject matter of the public trust in respect of which the offence is alleged to have been committed is situate.

Cognizance of offences.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of First Class shall try an offence under this Act.

XLV of 1860.

24. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Registrars to be public servants.

25. No suit or prosecution or other proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Prosecution of persons acting in good faith.

26. All sums due under this Act shall be recoverable as arrears of land revenue.

Recovery of sums due under this Act.

27. (*1*) [1][The Provincial Government] may make rules for the purpose of carrying in to effect the provisions of this Act.

Power of Provincial Government to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely :—

(*a*) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (*1*).

[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*b*) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (*1*), clause (*e*).

(*c*) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5 (*4*).

(*d*) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(*e*) Prescribing the form of Register of Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (*3*).

(*f*) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(*g*) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (*1*).

(*h*) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (*2*) and 17.

(*i*) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (*4*).

(*j*) Prescribing the fee payable for the inspection of the Register of Public Trusts under section 13.

(*k*) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 13.

(*l*) Prescribing the fee payable for obtaining certified copies of entries in the Register of Public Trusts and of documents filed with the Registrar under section 13.

(*m*) Prescribing the amount of contribution payable by a public trust and the date and the manner of such payment under section 14.

(*n*) Prescribing the objects in addition to those specified in the said section, to which the Public Trusts Administration Fund shall be applied under section 16.

(*o*) Prescribing the manner in which the Registrar may give sanction under section 23.

(*p*) Any other matter not specifically provided for in this Act, but which in the opinion of [1][the Provincial Government] is necessary for carrying into effect the provisions of this Act:

Provided that the rules made under clauses (*a*), (*f*), (*j*) and (*m*) shall provide for such adjustment from time to time of the rates of fees payable under sections 5, 8 and 13 and the contributions payable under section 14 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of [1][the Provincial Government] for payment of the charges and expenses referred to in section 16.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [1][*Official Gazette*].

(*4*) Rules made under this section shall be laid [2][before each of the Chambers of the Provincial Legislature] at the session [3][thereof] next following and shall be liable to be modified or rescinded by a statutory motion [4][carried in both the Chambers] and such rules shall after notification in the [5][*Official Gazette*] be deemed to have been modified or rescinded accordingly:

Provided that when, in the opinion of [6][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this dAct, [6][the Provincial Government] may, by notification in the [1][*Official Gazette*] reclare that the modification or rescission shall have no effect and thereupon the, ules shall remain in force as if they had not been modified or rescinded.

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[1] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[2] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[3] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[4] The words "carried in both the Chambers" were substituted for the words "of the said Council", *ibid.*

[5] The words "*Official Gazette*" were substituted for the words "*Local Official Gazette*", *ibid.*.

[6] The words "the Provincial Government" were substituted for the words "Government", *ibid.*

BOMBAY ACT No. XXIX OF 1935.[1]

[THE BOMBAY CRIMINAL PROCEDURE (ELECTIONS OFFENCES) AMENDMENT ACT, 1935.]

[*30th November 1935.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay, for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

1. (*1*) This Act may be called the Bombay Criminal Procedure (Elections Offences) Amendment Act, 1935. Short title. and extent.

(*2*) It shall apply to the whole of the Presidency of Bombay.

V of 1898. 2. In ection 196 of the Code of Criminal Procedure, 1898, in its application to the Presidency of Bombay, after the word and figures "section 127" the words and figures "and section 171F so far as it relates to the offence of personation" shall be inserted. Amendment of section 196 of Act V of 1898.

3. In Schedule II to the same Code— Amendment of Schedule to Act V of 1898.

XLV of 1860. (*a*) in the entry relating to section 171F of the Indian Penal Code, the words "and personation" shall be deleted;

(*b*) after the said entry so amended, the following shall be inserted, namely :—

	Personation at an election.	May arrest without warrant.	Ditto.	Ditto.	Ditto.	Ditto.	Ditto.

XLV of 1860. (*c*) in the third column in the entry relating to section 171G of the Indian Penal Code, for the word "Ditto", the words "Shall not arrest without warrant" shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 259-260; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vol. XLIII.

THE BOMBAY MOTOR VEHICLES TAX ACT, 1935.

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SCHEDULE I.

SCHEDULE II.

BOMBAY ACT No. XXXIV OF 1935.[1]

[THE BOMBAY MOTOR VEHICLES TAX ACT, 1935.]

[*6th February 1936.*]

Amended by Bom. 24 of 1936.
Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 13 of 1939.
" " " 3 of 1940.*
" " " 9 of 1942.*
" " " 46 of 1947.
" " " 5 of 1949.

An Act to provide for the imposition of a tax on motor vehicles in the Bombay Presidency.

WHEREAS it is expedient to impose a tax on motor vehicles in the Bombay Presidency and to provide for certain other purposes hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required under section 80C of the said Act have been obtained for the passing of this Act: It is hereby enacted as follows:—

5 & 6, Geo. V c. 61.

1. (*1*) This Act may be called the Bombay Motor Vehicles Tax Act, 1935. Short title, commencement and extent.

(*2*) It shall come into force on the 1st day of April 1936.

(*3*) It extends to the whole of the Presidency of Bombay excluding Sind.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

[2][(*1*) "Certificate of taxation" means a certificate issued under sub-section (*3*) of section 3 showing the rate at which the tax is leviable and the periods for which the tax has been paid;]

[3]* * * * * *

II of 1924. (*3*) "Local authority" includes a cantonment authority within the meaning of the Cantonments Act, 1924;

[3]* * * * * *

(*5*) "Prescribed" means prescribed by rules made under this Act;

(*6*) "Presidency" means the Presidency of Bombay excluding Sind;

[3]* * * * * *

(*8*) "Quarter" means a period of three months commencing from the 1st day of January, the 1st day of April, the 1st day of July or the 1st day of October in each year and the term "quarterly" shall be construed accordingly;

[3]* * * * * *

IV of 1939. (*10*) "Registered owner" means the person in whose name a motor vehicle is registered under the [4][Motor Vehicles Act, 1939;]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 286–289 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1935, Vol. XLIII.

[2] This clause was substituted for the original by Bom. 3 of 1940, s. 2 (*i*), read with Bom. 40 of 1947, s. 2.

[3] Clauses (*2*), (*4*), (*7*), (*9*) and (*13*) were deleted, *ibid.*, s. 2.

[4] These words and figures were substituted for the words and figures. "Indian Motor Vehicles Act, 1914" *ibid.*, s. 2 (*iii*).

* This Act was re-enacted by Bom. 40 of 1947, s. 2.

(*11*) "Schedule" means a schedule appended to this Act ;

(*12*) "Tax" means a tax imposed under this Act ;

[1][(*12A*) "Tax Token" means a token issued under sub-section (*3*) of section 3 showing that the amount of tax has been paid and includes a fresh tax token issued in place of the original token under sub-section (*2*) of section 6 ;]

[2]* * * * * *

(*14*) "Year" means a financial year ;

[3][(*15*) Words and expressions used but not defined in this Act shall have the meaning assigned to them in the Motor Vehicles Act, 1939]. IV of 1939.

Levy of tax.

3. (*1*) As from the 1st day of April 1936 a tax at the rates fixed by the [4][Provincial Government] by notification in the [5][*Official Gazette*] not exceeding the maximum rates specified in the First Schedule shall be levied on all motor vehicles used or kept for use in the Presidency :

[6][Provided that in the case of motor vehicles kept by a dealer in, or manufacturer of, such vehicles for the purposes of trade, the tax shall only be levied and paid by such dealer or manufacturer on vehicles permitted to be used on roads in the manner prescribed by rules made under the Motor Vehicles Act, 1939.] IV of 1939.

(*2*) The tax leviable under sub-section (*1*) shall be paid in advance by every registered owner of, or any person having possession or control of, a motor vehicle—

(*i*) annually at the rates fixed by the [4][Provincial Government] under sub-section (*1*), or

(*ii*) for one or more quarters on payment for each such quarter at one-fourth of the annual rates referred to in clause (*i*) *plus* six and one-fourth per centum, or

(*iii*) for any period less than a quarter, expiring on the last date of any quarter, at the quarterly rates referred to in clause (*ii*) less one-twelfth of the annual rate of the tax for every complete calendar month which has expired during such quarter :

[7]* * * * * *

[8][Provided [7]* that in calculating the amount due under this sub-section for any period less than one year, the fraction of a rupee less than 8 annas shall be counted as 8 annas and the fraction of a rupee exceeding 8 annas shall be counted as a rupee]

[9][(*3*) When the tax leviable under this section in respect of any motor vehicle is paid, the registering authority shall issue to the person paying the tax a token in the prescribed form showing that such tax has been paid. The registering authority shall also issue to such person a certificate of taxation showing the rate at which the tax is leviable and the period for which the tax has been paid in respect of such motor vehicle or if a certificate of taxation has been already issued in respect of such motor vehicle, cause an entry about such payment to be made in such certificate of taxation.]

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[1] This clause was inserted, by Bom. 3 of 1940, s. 2 (*iv*), read with Bom. 40 of 1947, s. 2.

[2] Clauses (*2*), (*4*), (*7*), (*9*) and (*13*) were deleted, *ibid.*

[3] This clause was inserted, *ibid.*, s. 2 (*v*).

[4] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[6] This proviso was added by Bom. 46 of 1947, s. 2 (*i*).

[7] This proviso and the word "further" were deleted, *ibid.*, s. 2 (*ii*).

[8] This proviso was inserted by Bom. 3 of 1940, s. 3 (*i*) (*b*) read with Bom. 40 of 1947, s. 2.

[9] This clause was inserted, *ibid.*, s. 3 (*ii*).

4. [*Grant or renewal of registration certificates.*] *Repealed by Bom. 3 of 1940, s. 4, read with Bom. 40 of 1947, s. 2.*

5. (*1*) [1][When any person has paid the annual tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette] firstly, in respect of the quarter or quarters which may not have commenced when the [2][tax token and the certificate of taxation] are surrendered, of a sum equal to the difference between the sum paid as annual tax and the sum which would have been payable at the quarterly rate, for every quarter which has expired when, and the quarter in which, the [2][tax token and the certificate of taxation] are surrendered and secondly, in respect of any unexpired portion of a quarter in accordance with the provisions of sub-section (*2*) of this section as if he had paid the tax for that quarter at the quarterly rate. Refund of tax.

(*2*) [3][When any person has paid the quarterly tax in advance in respect of a motor vehicle and has produced a certificate signed by a registering authority stating that the tax token and the certificate of taxation issued in respect of such vehicle have been surrendered, he shall be entitled to a refund, subject to such conditions as may be notified by the Provincial Government in the Official Gazette] for each complete calendar month in the period for which such tax has been paid and which has not commenced on the date on which the [2][tax token and the certificate of taxation] are surrendered, of a sum equal to one-twelfth of the annual rate of the tax leviable in respect of such vehicle.

(*3*) When any person has paid the tax in advance in respect of a motor vehicle, he shall be entitled, on the production of a certificate signed by a registering authority stating that an application for the registration [4]* * * of such vehicle has been refused, to a refund of the tax paid.

[5][(*4*) When a motor vehicle in respect of which the tax has been paid is altered in such manner as to cause it to become a vehicle in respect of which the tax is leviable at a lower rate, the person who has paid such tax shall be entitled on the production of a certificate signed by a registering authority stating that the vehicle has been so altered to a refund of a sum equal to the difference between the amount which would be refundable to him in accordance with the provisions of sub-sections (*1*) and (*2*) on the surrender of the tax token and the certificate of taxation and the amount of the tax leviable on such vehicle at the lower rate.

(*5*) Notwithstanding anything contained in sub-sections (*1*) and (*2*) a person shall be entitled to a refund of the tax as provided in the said sub-sections on the production of a certificate signed by a registering authority stating that such authority is satisfied that—

(*a*) such person has, for reasons beyond his control, not been able to surrender the tax token or the certificate of taxation, and

(*b*) the vehicle in respect of which the refund of the tax is claimed shall not be used in any public place during the period for which such refund is claimed.]

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[1] This portion was substitutde for the original by Bom. 46 of 1947, s. 3 (*i*).

[2] These words were substituted for the words "certificate of registration and licence card" and "certificate and licence card" by Bom. 3 of 1940, read with Bom. 40 of 1947, s. 2.

[3] This portion was substituted for the original by Bom. 46 of 1947, s. 3(*ii*).

[4] The words "or for the renewal of registration" were deleted by Bom. 3 of 1940 s. 5 (*ii*), read with Bom. 40 of 1947, s. 2.

[5] Sub-sections (*4*) and (*5*) were inserted, *ibid.*, s. 5 (*iii*).

Refund of tax in respect of motor vehicles not used in public places.

[1][5A. When any person has paid the tax in respect of a motor vehicle, he shall be entitled to a refund of the same as provided in sub-sections (*1*) and (*2*) of section 5 on the production of a certificate signed by a registering authority stating that such authority is satisfied that the vehicle in respect of which the refund of the tax is claimed has not been used in any public place during the period for which such refund is claimed.]

Declaration by person having possession or control of a motor vehicle.

6. (*1*) Every registered owner of, or person who has possession or control of, a motor vehicle used or kept for use in the Presidency shall fill up and sign a declaration in the prescribed form, stating the prescribed particulars and shall deliver within the prescribed time the declaration so filled up and signed to a registering authority and shall pay to the registering authority the tax which he appears by such declaration to be liable to pay in respect of such vehicle.

(*2*) When a motor vehicle used or kept for use is [2][altered or is proposed to be used in such manner] as to render the registered owner or person who has been in possession or control of such vehicle liable to the payment of an additional tax under section 7, [3][such owner or person] shall fill up and sign an additional declaration in the prescribed form, showing the nature of the alteration made [4][or of such use] and containing the prescribed particulars and shall deliver such additional declaration so filled up and signed together with the [5][tax token and the certificate of taxation] in respect of the motor vehicle so altered [6][or proposed to be so used] to a registering authority and shall pay to the registering authority the additional tax payable under section 7 which he appears by such additional declaration to be liable to pay in respect of such vehicle. [7][On receipt of such additional tax, the registering authority shall issue to such owner or person a fresh tax token in place of the original token and shall cause an entry about such payment to be made in the certificate of taxation.]

[8][(*3*) Such owner or person shall, at the time of making payment of the tax under sub-section (*1*) or of the additional tax under sub-section (*2*), produce before the registering authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939.] IV of 1939.

Payment of additional tax.

7. When any motor vehicle in respect of which a tax has been paid is altered, [9][or proposed to be used] in such manner as to cause the vehicle to become a vehicle in respect of which a higher rate of tax is payable, the registered owner or person who is in possession or control of such vehicle shall pay an additional tax of a sum which is equal to the difference between the tax already paid, and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of its being altered [9][or so proposed to be used] and the registering authority shall not grant a fresh [10][tax token] in respect of such vehicle so altered [9][or proposed to be so used] until such amount of tax has been paid.

Liability to pay arrears of tax of persons succeeding to the ownership, possession or control of motor vehicles.

[11][7A. (*1*) If the tax leviable in respect of any motor vehicle remains unpaid by any person liable for the payment thereof and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the registering authority.

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[1] This section was inserted by Bom. 46 of 1947, s. 4.

[2] These words were substituted for the words " altered so ", *ibid.*, s. 5 (*i*).

[3] These words were substituted for words " such person ", *ibid.*

[4] These words were inserted, *ibid.*

[5] These words were substituted for the words " registration certificate" by Bom. 3 of 1940, s. 6 (*i*), read with Bom. 40 of 1947, s. 2.

[6] These words were inserted by Bom. 46 of 1947, s. 5 (*i*).

[7] These words were added by Bom. 3 of 1940, s. 6 (*ii*), read with Bom. 40 of 1947.

[8] This sub-section was inserted by Bom. 46 of 1947, s. 5 (*ii*).

[9] These words were inserted, *ibid.*, s. 6.

[10] These words were substituted for the words " certificate of registration or renewed any certificate of registration " by Bom. 3 of 1940, s. 7, read with Bom. 40 of 1947, s. 2.

[11] This section was inserted by Bom. 5 of 1949, s. 2.

(*2*) Nothing contained in this section shall be deemed to affect the liability to pay the said tax of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle.]

8. (*1*) Any police officer in uniform, not below such rank as may be prescribed by [1][the Provincial Government] in this behalf, may require the driver of any motor vehicle [2][in any public place] to stop such vehicle and cause it to remain stationary so long as may reasonably be necessary for the purpose of satisfying himself that the amount of the tax due in accordance with the provisions of this Act in respect of such vehicle has been paid. Power of police officer to stop a motor vehicle.

(*2*) Any person failing to stop a motor vehicle when required to do so by a police officer under sub-section (*1*) shall, on conviction, be punishable with the same penalty as provided in section 12.

[3][**9.** (*1*) The Provincial Government shall pay annually to any local board which at the commencement of this Act was levying tolls on vehicles or animals and to any other local authority which at the said date was levying or collecting tolls on motor vehicles and trailers a sum determined by the Provincial Government, after consulting the local board or local authority concerned, as representing the net average annual income of such local board or local authority from such tolls, after deducting the cost of collection, during the three years ending on the 31st day of March 1936, *plus* 10 per centum. Utilisation of the proceeds of the tax.

(*2*) The contributions to the local authorities fixed under sub-section (*1*) shall be paid in such instalments and in such manner and on such dates as the Provincial Government, after consulting the local authorities concerned, may determine.

(*3*) If, in any year, the proceeds of the tax collected under this Act, after deducting such sum as expenses of collection of the tax as the Provincial Government may, determine in this behalf, exceed the sum of Rs. 26,57,000 the excess amount shall be entered in a separate account and shall be expended in such manner as the Provincial Government may determine solely on the construction, improvement and maintenance of new and existing roads including roads vesting in, belonging to or managed by, any local authority :

Provided that such expenditure shall be a supplement to and not in substitution for any funds which would otherwise be expended on roads by the Provincial Government or by local authorities.

(*4*) The contributions made under sub-section (*2*) and the expenditure incurred under sub-section (*3*) shall be charged on the revenues of the Province.

Explanation.—" Road " includes the slopes, berms and side drains of a road, all bridges, culverts and causeways built on or across a road and footways.]

10. (*1*) Whoever— Penalty for possession or control of motor vehicle without payment of tax and for incomplete and untrue declaration.

(*a*) as a registered owner or otherwise has possession or control of any motor vehicle used or kept for use without having paid the amount of the tax or additional tax due in accordance with the provisions of this Act in respect of such vehicle, or

(*b*) delivers a declaration or additional declaration wherein the particulars required by or under this Act to be therein set forth are not fully and truly stated,

shall, on conviction, be punishable with fine [4][which shall not be less than a sum equal to the quarterly tax payable in respect of such vehicle and which may extend to a sum equal to the annual tax payable in respect of such vehicle; and in the event of such person having been previously

[1] The words " the Provincial Government " were substituted for the word " Government " by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words " on any public road " by Bom. 3 of 1940, s. 8 read with Bom. 40 of 1947, s. 2.

[3] This section was substituted for the original by Bom. 13 of 1939, s. 3.

[4] These words were substituted for the words commencing with the words " which may extend to " and ending with the words " is committed " by Bom. 3 of 1940, s. 9, read with Bom. 40 of 1947 s. 2.

convicted of an offence under this section with fine which shall not be less than a sum equal to the tax payable in respect of such vehicle for two quarters and which may extend to a sum equal to twice the annual tax payable in respect of such vehicle ;] and the amount of any tax due shall be recoverable as if it were a fine.

(2) It shall be lawful for any person who is accused of an offence under this section to pay as penalty in the prescribed manner and in the prescribed time and to the prescribed officer by way of composition for the offence with which he is accused such sum as may be prescribed. On payment by such person of such sum together with the amount of tax due, if any, such person, if in custody, shall be set at liberty and if any proceedings in any criminal court have been instituted against such person in respect of such offence the composition shall be deemed to amount to an acquittal and no further criminal proceedings shall be taken against such person in respect of such offence.

Tax recoverable as arrear of land revenue.

11. Any tax due under this Act shall be recoverable in the same manner as an arrear of land revenue.

Other penalties.

12. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, on conviction, if no other penalty is elsewhere provided in this Act or the rules for such a contravention, be punishable with fine which may extend to one hundred rupees and in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder with fine which may extend to two hundred rupees.

Trial of offences.

13. No court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try an offence punishable under this Act.

Levy of toll on certain bridges.

14. Notwithstanding anything contained in this Act, it shall be lawful—

(*a*) for the [1][Provincial Government] or any local board to levy tolls on [2][vehicles, animals and persons], or

(*b*) for any other local authority to levy tolls on motor vehicles or trailers,

under any other law for the time being in force, on any bridge constructed, [3][reconstructed or repaired] after the commencement of this Act by the [1][Provincial Government], local board or other local authority, as the case may be :

Provided that the [1][Provincial Government] is satisfied that—

(*a*) the capital cost incurred in the construction, [4][reconstruction or repairs, as the case may be,] of such bridge is not less than five lakhs of rupees, and

(*b*) such bridge is of special service to the public :

Provided further that such toll shall be levied only at such rate and for such period as the [1][Provincial Government] may, by notification in the [5][*Official Gazette*], declare to be necessary for the recovery of the amount expended upon the construction [4][reconstruction or repairs, as the case may be,] of such bridge or such portion of the said amount as the [1][Provincial Government] may determine.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the words "vehicles and animals" by Bom. 3 of 1940, s. 10 read with Bom. 40 of 1947, s. 2.

[3] These words were inserted by Bom. 9 of 1942, s. 2 (*1*) read with Bom. 40 of 1947.

[4] These words were inserted, *ibid.*, s. 2 (*2*).

[5] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

Bom. II of 1868.

15. Except as provided in the Bombay Ferries Act, 1868, and in section 14, no toll shall be levied or collected— Bar to levy tolls on motor vehicles.

(*a*) on any [1][vehicle, animal or person] by the [2][Provincial Government] or any local board, or

(*b*) on any motor vehicle or trailer by any other local authority.

16. (*1*) Where, before the commencement of this Act, the collection of tolls leviable at any toll station has been leased to any person under any law for the time being in force, other than the Bombay Ferries Act, 1868, and the lease relates wholly or in part to any period subsequent to the commencement of this Act, the amount which the lessee has contracted to pay to the local authority concerned or to the [2][Provincial Government] shall be reduced by the amount of the loss suffered by him in consequence of this Act having come into force. Modification of leases.

Bom. II of 1868.

(*2*) If the lessee and the local authority are unable to agree as to the amount of such loss or if any other dispute arises between them as to the effect of this Act on the contract of lease, such dispute shall be decided by the Collector of the district, and any such dispute arising between the [2][Provincial Government] and their lessee shall be decided by the [2][Provincial Government]. The decision of the Collector or the [2][Provincial Government], as the case may be, shall be final.

17. No prosecution, suit or other proceeding shall lie against any person for anything in good faith done or intended to be done under this Act. Protection. for *bona fide* acts.

18. The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], exempt either totally or partially any motor vehicle or class of motor vehicles from the payment of the tax. Every notification issued under this section shall be laid [4][before each of the Chambers of the Provincial Legislature] at the session [5][thereof] next following and shall be liable to be rescinded or modified by a resolution [6][in which both the Chambers concur], and the rescission or modification so made shall, after publication by notification in the [3][*Official Gazette*], be deemed to have come into force. Exemptions.

[7][**19.** All motor vehicles designed and used solely for carrying out agricultural operations on farms or farm lands shall be exempt from the payment of the tax. Exemption of motor vehicles used for agriculture.

Explanation.—For the purpose of this section the expression "agricultural operation" shall mean tilling, sowing, harvesting, crushing of agricultural produce or any other similar operation carried out for the purpose of agriculture but shall not include the transportation of persons or materials for the purpose of agriculture or the transportation of agricultural produce.]

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[1] These words were substituted for the words "vehicle or animal" by Bom. 3 of 1940, s. 11 read with Bom. 40 of 1947, s. 2.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid*.

[4] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid*.

[5] The word "thereof" was substituted for the words "of the said Council", *ibid*.

[6] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid*.

[7] This section was substituted for the original by Bom. 3 of 1940, s. 12 read with Bom. 40 of 1947.

Appeal.

[1][19A. Any person, who is aggrieved by any order of a registering authority made under this Act, may, within the prescribed time and in the prescribed manner, appeal to the prescribed authority.]

Power to make rules.

20. (*1*) The [2][Provincial Government] may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the [2][Provincial Government] may make rules for all or any of the following purposes, namely :—

(*a*) to prescribe the manner in which the tax shall be paid ;

(*b*) to prescribe the form of any [3][token,] declaration or certificate, the particulars to be stated therein and the time within which the declaration shall be delivered ;

(*c*) to regulate the manner in which refunds or deductions or exemptions may be claimed ;

(*d*) to specify the police officers employed to exercise power under section 8 ;

(*e*) to prescribe the amount of penalty payable under sub-section (*2*)of section 10, the manner in which, the time within which and the officer to whom, such penalty shall be paid ;

(*f*) to provide for the total or partial exemption from liability to payment of the tax of any motor vehicle brought into the Presidency by any person visiting the Presidency or making a temporary stay therein, the time within which the declaration shall be made by any such person, the amount which shall be payable on account of such vehicle and the token which any such vehicle shall carry ;

[4][(*g*) the time within which, the manner in which and the authority to which an appeal may be made under section 19A ;]

(*h*) any other matter which may be prescribed.

(*3*) All rules made under this section shall be published in the [5][*Official Gazette*].

(*4*) Rules made under this section shall be laid [6][before each of the Chambers of the Provincial Legislature] at the session [7][thereof] next following and shall be liable to be modified or rescinded by a resolution [8][in which both the Chambers concur] and the modification or rescission so made shall, after publication by notification in [5][*Official Gazette*] be deemed to have come into force :

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[1] This section was inserted by Bom. 5 of 1949, s. 3.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was inserted by Bom. 3 of 1940, s. 13 (*i*) read with Bom. 40 of 1947.

[4] Clause (*g*) was inserted by Bom. 5 of 1949, s. 4.

[5] The words "*Official Gazette*" were substiuted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[6] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[7] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[8] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

SCHEDULE II.

(*See* section 22.)

Year.	Number.	Act.	Amendment.
1901	II	The Bombay District Municipal Act.	In clause (*b*) of section 59— (1) in sub-clause (*iii*), after the word "vehicles", the words and brackets "(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted; (2) In sub-clause (*x-a*), after the words "any other tax" the words and brackets "(other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.
1923	VI	The Bombay Local Boards Act.	In section 99, after the words "any tax" the words and brackets "(other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.
1925	XVIII	The Bombay Municipal Boroughs Act.	In section 73— (1) in clause (*iii*), after the word "vehicles" the words and brackets "(other than motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)", shall be inserted; (2) in clause (*xiv*), after the words "any other tax" the words and brackets "(other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.
1933	VI	The Bombay Village Panchayats Act.	In sub-section (2) of section 89, in clause (*vii*), after the words "[1]any other tax" the words and brackets "(other than a toll on motor vehicles or trailers save as provided in section 14 of the Bombay Motor Vehicles Tax Act, 1935)" shall be inserted.

[1] The word "any" was substituted for the word "and" by Bom. 24 of 1936, s. 2, schedule.

	Maximum annual rate of tax.
	Rs.
[1]Provided further that the maximum annual tax in the case of motor vehicles registered for use solely within municipal and cantonment limits shall not exceed Rs. 333-6-0 and in other cases shall not exceed Rs. 500.	
V.—Motor vehicles other than those liable to tax under the foregoing provisions of the Schedule :—	
(*a*) Vehicles not exceeding 15 cwt. in weight, unladen ...	40
(*b*) Vehicles exceeding 15 cwt. but not exceeding 30 cwt. in weight, unladen	60
(*c*) Vehicles exceeding 30 cwt. but not exceeding 45 cwt. in weight, unladen	80
(*d*) Vehicles exceeding 45 cwt. in weight, unladen ...	110
(*e*) Additional tax payable in respect of such vehicles used for drawing trailers :—	
(1) for each trailer not exceeding 1 ton in weight, unladen...	25
(2) for each trailer, exceeding 1 ton in weight, unladen ...	50
Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer.	
B.—Motor vehicles other than those fitted solely with pneumatic tyres.	The rates shown in class A plus 50 per centum.
C.—Motor vehicles visiting the Presidency	The rates prescribed in the rules.
D.—Dealers in or Manufacturers of motor vehicles.	
For a general licence—	
(1) in respect of any seven or less number of motor vehicles ...	300
(2) in respect of any additional seven or less number of motor vehicles	300

[1] These provisos were substituted for the original provisos by Bom. 24 of 1936, s. 2, Schedule.

	Maximum annual rate of tax.
	Rs.
(*d*) Vehicles the registered aden weight of which exceeds 90 cwt. but does not exceed 120 cwt. ..	480
(*e*) Vehicles the registered laden weight of which exceeds 120 cwt. but does not exceed 150 cwt.	600
(*f*) Vehicles the registered laden weight of which exceeds 150 cwt.	720
(*g*) Additional tax payable in respect of such vehicles used for drawing trailers :—	
(1) for each trailer the registered laden weight of which does not exceed 40 cwt.	150
and	
(2) for each trailer the registered laden weight of which exceeds 40 cwt.	240

Provided that two or more vehicles shall not be chargeable under this clause in respect of the same trailer :

Provided further that the rates for motor vehicles registered for use solely within municipal and cantonment limits shall be two-thirds of the aforesaid rates.]

IV.—Motor vehicles plying for hire and used for the transport of passengers :—

(*a*) Vehicles licensed to carry in all not more than [1][four] [2][passengers]	[3][120]
(*b*) Vehicles licensed to carry more than [4][four passengers] for every additional [5][passenger] which the vehicle is so licensed to carry	16

[6]Provided that the rates for motor vehicles registered for use solely within municipal and cantonment limits shall be ⅔rds of the aforesaid rates :

[1] This word was substituted for the word "two" by Bom. 3 of 1940, s. 15 (*ii*) (*a*), read with Bom. 40 of 1947.

[2] This word was substituted for the words "persons (excluding the driver of the vehicle)" by Bom. 46 of 1947, s. 7.

[3] These figures were substituted for the figures "88" by Bom. 3 of 1940, s. 15 (*ii*) (*b*), read with Bom. 40 of 1947.

[4] These words were substituted for the words "two persons (excluding the driver of the vehicle)" by Bom. 46 of 1947, s. 7.

[5] This word was substituted for the word "person" *ibid.*

[6] These provisos were substituted for the original provisos by Bom. 24 of 1936, s. 2, Schedule.

Provided that when in the opinion of the [1][Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][Provincial Government] may, by notification in the [2][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

21. [*Existing certificates deemed to be cancelled unless application for fresh certificate made within certain time and this Act not to affect past liability.*] *Repealed by Bom. 3 of 1940, s. 14, read with Bom. 40 of 1947.*

22. The enactments specified in the second Schedule are hereby amended to the extent and in the manner specified in the fourth column thereof. Amendment of certain enactments.

23. [*Levy of registration fees under Act VIII of 1914 after passing of this Act.*] *Repealed by Bom. 3 of 1940, s. 14, read with Bom. 40 of 1947.*

SCHEDULE I.

(*See* section 3.)

	Maximum annual rate of tax. Rs.
A.—Motor vehicles fitted solely with pneumatic tyres :—	
I.—Motor cycles and tricycles (including motor-scooters and cycles ith attachment for propelling the same by mechanical power) not xceeding 8 cwt. in weight, unladen :—	
(*a*) Cycles not exceeding 200 lbs. in weight, unladen ..	18
(*b*) Cycles exceeding 200 lbs. in weight, unladen ..	24
(*c*) Tricycles	24
(*d*) Cycles or tricycles used for drawing a trailer or sidecar, in addition to above rates	3
II.—Motor vehicles not exceeding 5 cwt. in weight unladen adapted and used for invalids	5
[3][III.—Motor Vehicles (including tricycles) weighing more than 8 cwt. unladen used for the transport or haulage of goods or materials :—	
(*a*) Vehicles the registered laden weight of which does not exceed 30 cwt.	150
(*b*) Vehicles the registered laden weight of which exceeds 30 cwt. but does not exceed 60 cwt.	240
(*c*) Vehicles the registered laden weight of which exceeds 60 cwt. but does not exceed 90 cwt.	360

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] This article was substituted for the original by Bom. 3 of 1940, s. 15 (*i*), read with Bom. 40 of 1947, s. 2.

THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1936.

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BOMBAY ACT No. IV OF 1936.[1]

[THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1936.]

[*16th March 1936.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

An Act to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Presidency of Bombay.

XII of 1925. WHEREAS it is expedient to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Presidency of Bombay for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A and the previous sanction of the Governor required under section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1936.

(*2*) This Act shall extend in the first instance to the Province of Sind or such area in the said Province with effect from such date as the [2][Provincial Government] may by notification in the [3][*Official Gazette*] appoint. The [2][Provincial Government] may by notification in the [3][*Official Gazette*] extend the provisions of this Act to any other area with effect from such date as the [2][Provincial Government] may appoint in the said notification.

Amendment of section 2 of Act XII of 1925.

XII of 1925. 2. In section 2 of the Cotton Ginning and Pressing Factories Act, 1925, hereinafter called the said Act,—

(*1*) after the word, comma and dash "context,—" the following shall be inserted, namely :—

"(*aa*) 'admixture of cotton' means a prescribed mixture of different varieties of cotton;" and

(*2*) after clause (*f*) the following clause shall be inserted, namely :—

"(*ff*) 'licence' means a licence granted under section 2A."

(*3*) after clause (*h*) the following clause shall be inserted, namely :—

"(*i*) 'Season' means such period as may from time to time be prescribed."

Insertion of section 2A in Act XII of 1925.

3. After section 2 of the said Act, the following section shall be inserted, namely :—

Licence for working cotton ginning factory or cotton pressing factory.

2A. (*1*) No cotton ginning factory or cotton pressing factory shall be worked without a licence granted to the owner thereof by such authority, in such form, subject to such conditions and on payment of such fee, as may be prescribed.

(*2*) (*a*) A licence for which the prescribed fee has been paid shall be liable to be refused only on the ground that the owner or person in charge of a cotton ginning or cotton pressing factory in respect of which a licence is applied for has been convicted of an offence punishable under this Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 335–336; for Report of the Select Committee, *see Bombay Government Gazette*, 1936, Part V, pp. 24–27; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLIV.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*local official Gazette*", *ibid.*

(*b*) A licence shall be liable to be suspended, withdrawn or cancelled only on the ground that the owner or person in charge of the cotton ginning or cotton pressing factory in respect of which a licence was granted has been convicted of an offence punishable under this Act:

Provided that no licence shall be suspended, withdrawn or cancelled under this clause until after the expiration of the season in which the said owner or person has been so convicted.

(*3*) If any person works a cotton ginning or cotton pressing factory in respect of which a licence has not been granted or has been suspended, withdrawn or cancelled, such person shall be punishable:—

(*a*) on a first conviction, with fine which may extend to five hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to one hundred rupees for every day subsequent to the first day during which the offence has continued; and

(*b*) on every subsequent conviction, with fine which may extend to fifteen hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to two hundred rupees for every day subsequent to the first day during which the offence has continued."

Amendment of section 3 of Act XII of 1925.

4. In sub-section (*2*) of section 3 of the said Act:—

(*1*) the word "and" shall be omitted, and

(*2*) the following words shall be added at the end:—

"and the prescribed particulars as supplied by such person of the cotton ginning factory where it has been ginned."

Insertion of new sections 3A, 3B and 3C in Act XII of 1925.

5. After section 3 of the said Act, the following new sections shall be inserted, namely:—

Prohibition against watering, etc., of cotton.

"3A. (*1*) The [1][Provincial Government] may by notification in the [2][*Official Gazette*] declare that in any area specified in such notification and to which this Act has been extended, no cotton which is ginned or pressed in a cotton ginning or cotton pressing factory shall contain any admixture of cotton.

(*2*) Any owner of a cotton ginning or cotton pressing factory or any person in charge of such factory—

(*a*) who knowing or having reason to believe that any cotton is watered or contains seed in excess of the prescribed proportion or contains any foreign substance, gins or presses or allows such cotton to be ginned or pressed in such factory, or

(*b*) who in any area specified in the notification under sub-section (*1*) gins or presses or allows to be ginned or pressed any cotton which he knows or has reason to believe to contain an admixture of cotton,

shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(*3*) Any owner of cotton who knowingly waters any cotton whic is ginned and which is being, or is intended to be, pressed in a cotton pressing factory, or mixes seed or foreign substance with such cotton, or in any area specified in sub-section (*1*) makes any admixture of cotton, or abets or knowingly allows or connives at any such watering, mixing or admixture of cotton, shall, on conviction, be punishable with fine which may extend to five thousand rupees.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*local official Gazette*", *ibid.*

Explanation.—For the purposes of this section, cotton shall not be deemed to be watered, unless such cotton contains moisture in excess of the normal quantity. The normal quantity of moisture in any given quantity of cotton is the amount of moisture that such cotton is reasonably expected to have, regard being had to the place or places at or to which, and the time or times of the year in which, such cotton has been picked, collected, stored, conveyed, left, ginned or pressed. A certificate given by the prescribed authority as to the normal quantity of moisture that a given quantity of such cotton should have and the quantity of moisture that it possesses shall be evidence of such matters, until the contrary is proved; and if the latter quantity exceeds the former it shall be evidence, until the contrary is proved, that the cotton is watered.

Examination of cotton, packages or bales.

3B. (*1*) The [1][Provincial Government] or any gazetted officer authorised by it in this behalf may on its or his own motion or on receipt of a complaint that there has been a contravention of the provisions of section 3A in respect of any cotton, package or of any bale and in the case of a complaint, on payment of the prescribed fee by the complainant, cause such cotton or the contents of such package or bale to be examined by the prescribed person or body.

(*2*) A certificate given by such person after examination of the contents of any bale under sub-section (*1*) shall be admissible in evidence and be presumptive proof of the facts mentioned therein until the contrary is proved.

Entry and inspection.

3C. (*1*) The [1][Provincial Government] may authorise any gazetted officer to enter into and inspect, at any reasonable time, any cotton ginning or cotton pressing factory for the purpose of ascertaining whether there is any contravention therein of any of the provisions of this Act or of any rule made thereunder or of any of the conditions subject to which a licence has been granted in respect of such factory and to seize all things in respect of which an offence punishable under this Act appears to have been committed.

(*2*) The owner or the person in charge of every cotton ginning or cotton pressing factory shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (*1*).

(*3*) The owner or the person in charge of such factory shall, in every instance, be permitted to attend during the inspection and the things seized during such inspection shall be sealed in the prescribed manner."

Amendment of section 5 of Act XII of 1925.

6. For section 5 of the said Act, the following section shall be substituted, namely :—

Returns.

"5. (*1*) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, monthly returns showing the quantity of cotton ginned in the factory during the preceding month and from the commencement of the season to the end of that month.

(*2*) The [1][Provincial Government] shall compile from the monthly returns submitted under sub-section (*1*), and shall publish in such manner as the [2][Central Government] may direct, a statement showing the total quantity of cotton ginned in the province during the month and from the commencement of the season to the end of the month to which the returns relate :

Provided that the quantity of cotton ginned in an individual factory shall not be published.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the words "Governor General in Council", *ibid.*

(*3*) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week.

(*4*) The [1][Provincial Government] shall compile from the weekly returns submitted under sub-section (*3*), and shall publish in such manner as the [2][Central Government] may direct, a statement showing the total number of bales pressed in the province during the week and from the commencement of the season to the end of the week to which the returns relate :

Provided that the number of bales pressed in any individual factory shall not be published.

(*5*) If default is made in submitting any return as required by sub-section (*1*) or sub-section (*3*), the owner of the factory shall, on conviction, be punishable with fine which may extend to fifty rupees.

(*6*) Where the owner of a cotton ginning or cotton pressing factory has notified to the prescribed authority that the work of ginning cotton or pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (*1*) or sub-section (*3*) until such work has been resumed."

Amendment of section 6 of Act XII of 1925.

7. In section 6 of the said Act, after the words "other than" the words and figures "the standard weights and measures, weighing and measuring instruments authorised under the Bombay Weights and Measures Act, 1932, in districts or areas in which Parts II, III, V and VI of that Act are in force or elsewhere other than" shall be inserted. Bom. XV of 1932.

Amendment of section 7 of Act XII of 1925.

8. In sub-section (*1*) of section 7 of the said Act, after the words "for the purpose of sections" insert the figures and letters "3A, 3C".

Insertion of new section 11A in Act XII of 1925.

9. After section 11 of the said Act the following new section shall be inserted, namely :—

Power of Magistrate to pass sentence.

"11A. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, a Presidency Magistrate or a Magistrate of the First Class may pass any sentence provided for any offence punishable under this Act and the provisions of the said Code shall be deemed to have been amended accordingly." V of 1898.

Amendment of section 13 of Act XII of 1925.

10. (*1*) In section 13 of the said Act, after clause (*a*), the following clauses shall be inserted, namely :—

"(*aa*) what shall constitute an admixture of cotton ;

(*ab*) the period which shall from time to time constitute a season ;

(*ac*) the authority by whom, the form in which, the conditions subject to which and the fees on payment of which, a licence may be granted under sub-section (*1*) of section 2A ;

(*ad*) the particulars of the cotton ginning factory to be entered in the register maintained under sub-section (*2*) of section 3 ;

(*ae*) the proportion of seed which may be contained in cotton ;

(*af*) the person authorised to give a certificate regarding the quantity of moisture contained in any cotton and other matters specified in section 3A ;

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the words "Governor General in Council", *ibid.*

(*ag*) the person authorised to examine bales under section 3B ;

(*ah*) the procedure for making a complaint and causing the contents of a bale to be examined and the fee for examination of the contents of a bale under sub-section (*1*) of section 3B ;

(*ai*) the manner in which the things seized shall be sealed under section 3C."

(*2*) Section 13 of the said Act shall be renumbered as sub-section (*1*) of that section and after the sub-section so renumbered, the following sub-sections shall be added, namely :—

"(*2*) The rules to be made under sub-section (*1*) shall be subject to the condition of previous publication.

(*3*) Rules made under sub-section (*1*) shall as soon as they are made be laid [1][before each of the Chambers of the Provincial Legislature] for a period of one month and shall be liable to be modified or rescinded by a resolution [2][passed by each of the Chambers during] the session thereof immediately following the expiry of the said period ; such rule shall, after notification in the [3][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of the [4][Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [4][Provincial Government] may, by notification in the [3][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded."

11. After section 15 of the said Act, the following sections shall be added, namely :— Addition of sections 16 and 17 in Act XII of 1925.

"16. Whoever contravenes any of the provisions of this Act or any rule made thereunder or any of the conditions subject to which a licence has been granted to him shall, on conviction, if no other penalty is already provided in this Act for such contravention, be punishable with fine which may extend to five hundred rupees or, if he has previously been convicted of an offence under this Act or any rule made thereunder, with fine which may extend to fifteen hundred rupees. Penalty.

17. (*1*) The District Magistrate may accept from any person whose licence is liable to be suspended, withdrawn or cancelled under this Act, or who is reasonably suspected of having committed an offence under this Act, a sum of money in lieu of such suspension, withdrawal or cancellation or by way of composition for the offence which may have been committed, as the case may be. Compounding offences, etc.

(*2*) On payment by such person of such sum to the District Magistrate, such person if in custody shall be set at liberty and if criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal."

12. In sub-sections (*5*) and (*6*) of section 3, in sub-section (*2*) of section 4, in sub-section (*2*) of section 6, in sub-section (*3*) of section 7, in sub-section (*2*) of section 8 and in sub-section (*3*) of section 9 of the said Act for the words "shall be punished" the words "shall, on conviction, be punishable" shall be substituted. Amendment of sections 3, 4, 6, 7, 8 and 9 of Act XII of 1925.

[1] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] The words "passed by each of the Chambers during" were substituted for the words "tabled at", *ibid.*

[3] The words "*Official Gazette*" were substituted for the words "*local offizial Gazette*", *ibid.*

[4] The words "Provincial Government" were substituted for the words "Local Government", *ibid.*

BOMBAY ACT No. XV OF 1936.[1]

[THE INDIAN LUNACY, BOMBAY DISTRICT MUNICIPAL AND BOMBAY MUNICIPAL BOROUGHS (AMENDMENT) ACT, 1936.]

[*27th November 1936.*]

An Act to amend the Indian Lunacy Act, 1912, in its application to the Presidency of Bombay, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925.

IV of 1912. Bom. III of 1901. Bom. XVIII of 1925. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, in its application to the Presidency of Bombay, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Lunacy, Bombay District Municipal and Bombay Municipal Boroughs (Amendment) Act, 1936.

IV of 1912.

2. In the Indian Lunacy Act, 1912—

Amendment of section 88 of Act IV of 1912.

(*1*) In section 88—

(*i*) after the words "has the means to maintain him", the words "or if any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force" shall be inserted;

(*ii*) the words "or any local authority liable for the cost of maintenance of such lunatic under any law for the time being in force" shall be deleted;

(*iii*) after the word "resides", the words "or the local authority liable for the cost of his maintenance is constituted" shall be inserted;

(*iv*) at the end of the marginal note, the following words shall be added, namely:—

"or by local authority liable for such costs".

Amendment of section 89 of Act IV of 1912.

(*2*) In section 89—

(*i*) in sub-section (*1*)—

(*a*) after the words "such lunatic" where they occur for the second time, the words "or that any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force" shall be inserted;

(*b*) after the words "such person", the words "or from such local authority" shall be added;

(*c*) at the end, the following proviso shall be added, namely:—

"Provided that no order for the recovery of the cost of maintenance of such lunatic from a local authority shall be made if he has an estate applicable to his maintenance or if there is any person legally bound, and having the means, to maintain him."

(*ii*) in sub-section (*2*), after the word "person", the words "or the local authority" shall be inserted.

3-4. [*The amendments made by sections 3 and 4 of this Act have been incorporated in the Bombay District Municipal Act, 1901 and the Bombay Municipal Boroughs Act, 1925, respectively.*]

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1936, Part V, p. 164 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

THE BOMBAY FAMINE RELIEF FUND ACT, 1936.

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BOMBAY ACT No. XIX OF 1936.[1]

[THE BOMBAY FAMINE RELIEF FUND ACT, 1936.]

[*5th December 1936.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 13 of 1939.

Amended by Bom. 9 of 1940.*

An Act to provide for the establishment and maintenance in the Presidency of Bombay of a Fund, called the Bombay Famine Relief Fund, for meeting expenditure at the time of serious famine or of distress caused by serious drought, flood or other natural calamities in the said Presidency.

WHEREAS it is expedient to provide for the establishment and maintenance in the Presidency of Bombay of a Fund for utilisation on occasions of serious famine and of distress caused by serious drought, flood or other natural calamities in the said Presidency; And whereas the previous sanction of the Governor required by section 80C of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Famine Relief Fund Act, 1936.

(*2*) It extends to the whole of the Presidency of Bombay.

(*3*) This section shall come into force at once. The remaining provisions of this Act shall come into force on such date as the [2][Provincial Government] may, by notificiation in the [3][*Official Gazette*], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Fund" means the Bombay Famine Relief Fund established under section 3; and

(*2*) "Presidency" means the Presidency of Bombay.

Establishment of the Bombay Famine Relief Fund.

3. On the commencement of this Act, the [2][Provincial Government] shall establish in and for the Presidency a Fund called "The Bombay Famine Relief Fund". The Fund shall consist of—

(*i*) the securities of the [4][Central Government] mentioned in section 4;

(*ii*) the interest which may from time to time accrue on such securities;

(*iii*) such other sums as the [2][Provincial Government] may from time to time contribute to the Fund under sub-section (*2*) of section 7 or otherwise; and

(*iv*) the interest which may from time to time accrue on the securities of the [4][Central Government] in which the sums to the credit of the Fund may be invested or reinvested under section 6.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1936, Part V, pp. 190-191; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] The words "Central Government" were substituted for the words "Government of India", *ibid.*

*This Act was re-enacted by Bom. 16 of 1947, s. 2.

Withdrawal of the Famine Relief Fund and its investment in securities of the Central Government.

4. The [1][Provincial Government] shall, on the commencement of this Act, apply to the [2][Central Government] for permission to withdraw the balance to their credit in the Famine Relief Fund maintained under rule 29 of the Devolution Rules made under the Government of India Act and on such permission being accorded, the [1][Provincial Government] shall, after setting apart from the balance so withdrawn, such sum as may be required during the remaining portion of the financial year 1936-37 for the grant of loans to cultivators and for meeting the expenditure on the relief of famine, if any, in the Presidency, invest the balance in securities of the [3][Central Government] in the name of the Secretary to the Government of Bombay, Finance Department. 5 & 6 Geo. V, c. 61.

Purposes for which the Fund may be utilised.

5. The Fund shall not be expended except upon—

(*i*) the relief of serious famine in the Presidency; and

(*ii*) the relief of distress caused by serious drought, flood or other natural calamities in the Presidency:

Provided that when the Fund exceeds sixty-three lakhs of rupees, the [1][Provincial Government] may utilise the excess to meet expenditure on protective irrigation works and other works for the prevention of famine in the Presidency, or for the grant of loans to cultivators either under the Land Improvement Loans Act, 1883, or under the Agriculturists' Loans Act, 1884, or for relief purposes, or in the repayment of advances made by the [3][Central Government] or to meet irrecoverable balances of loans granted under the said Acts or for relief purposes. XIX of 1883. XII of 1884.

Investment and reinvestment of amounts not required.

6. The [1][Provincial Government] shall from time to time invest or re-invest [4][in Government securities as defined in section 2 (*a*) of the Indian Securities Act, 1920, or in securities specified in clause (*c*) or (*d*) of section 20 of the Indian Trusts Act, 1882] all sums to the credit of the Fund, which may not be immediately required for any of the purposes mentioned in section 5. X of 1920. II of 1882.

Accounts of the Fund and making up of the deficiency in the Fund.

7. (*1*) The accounts of the Fund shall be made up at the end of each financial year, the securities belonging to the Fund being valued at their market value on the last day of such year.

(*2*) If the accounts so made up show that the balance in the Fund at the end of such year falls short of sixty-three lakhs of rupees, the deficiency shall be made up from the revenues of the Province:

Provided that if the deficiency exceeds ten lakhs of rupees, it may be made up in annual instalments, the amount of each instalment except the last being not less than ten lakhs of rupees.

[5][(*3*) The expenditure incurred by the Provincial Government under sub-section (*2*) shall be charged on the revenues of the Province.]

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the words "Governor General in Council", *ibid.*

[3] The words "Central Government" were substituted for the words "Government of India", *ibid.*

[4] These words were substituted for the words "in securities of the Central Government" by Bom. 9 of 1940, s. 2, read with Bom. 16 of 1947, s. 2.

[5] This sub-section was inserted by Bom. 13 of 1939, s. 4.

THE BOMBAY OPIUM SMOKING ACT, 1936.

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BOMBAY ACT No. XX OF 1936.[1]

[THE BOMBAY OPIUM SMOKING ACT, 1936.]

[*7th December 1936.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.

Amended by Bom. 17 of 1945.†

An Act to provide for the control of the practice of opium smoking and to prevent the assembling of persons for the purpose of such smoking in the Presidency of Bombay.

WHEREAS it is expedient to control the practice of opium smoking and to prevent the assembling of persons for such smoking in the Presidency of Bombay in the manner hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required under section 80C of the said Act have been obtained to the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V, c. 61.

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Opium Smoking Act, 1936.

(*2*) It extends to the whole of the Presidency of Bombay.

(*3*) This section shall come into force at once. The [2][Provincial Government] may, by notification in the [3][*Official Gazette*], direct that the remaining provisions of this Act shall come into force on such date as may be appointed in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "Collector" includes an officer appointed under section 3 to exercise the powers and perform the duties of a Collector under this Act;

(*2*) "Commissioner" means the Commissioner of Excise;

(*3*) "Duly empowered" means duly empowered by the [2][Provincial Government] by a general or special order;

(*4*) "Instrument of smoking" means any article used for the purpose of smoking opium;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1936, Part V, pp. 179—181; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

† This Act has been repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act were continued in force by Bom. 52 of 1947, s. 2.

(5) "Opium" has the same meaning as is assigned to it in the Opium Act, 1878, and includes *chandul*, *madat*, opium dross or scrapings from the opium pipe and every other preparation or admixture of opium which may be used for smoking; I of 1878.

(6) "Place" includes a house, building, shop, hut, tent, boat or vessel and any part thereof; and

(7) "Prepared opium" means any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and the dross or other residue remaining after opium is smoked.

CHAPTER II.

PROHIBITION AND CONTROL.

Appointment of special Collectors.

3. The [1][Provincial Government] may, by notification in the [2][*Official Gazette*], appoint any person other than the Collector of Land Revenue, to exercise in any district or area, all or any of the powers conferred, and perform all or any of the duties imposed, by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of the [1][Provincial Government], as the [1][Provincial Government] may from time to time direct.

Opium smoking assembly.

4. An assembly of two or more persons is designated an opium smoking assembly, when the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation 1.—An assembly which was not an opium smoking assembly when it was assembled may subsequently become such assembly.

Explanation 2.—A man and his wife shall not be deemed to be an opium smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

Member of opium smoking assembly.

5. Whoever, being aware of facts which render an assembly an opium smoking assembly, intentionally joins that assembly, or continues therein, is said to be a member of that assembly.

Presumption raised by presence of opium and any instrument of smoking.

6. The presence of any opium or prepared opium, and of any instrument of smoking or of any apparatus used in the preparation of opium in any place where two or more persons are assembled shall be held sufficient to raise a presumption that each member of such assembly is present at such place for the purpose of smoking opium or of preparing opium for smoking purposes.

CHAPTER III.

OFFENCES AND PENALTIES.

Penalty for being member of opium smoking assembly.

7. Whoever is a member of an opium smoking assembly shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one month, or with fine which may extend to Rs. 100, or with both.

[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

8. Whoever opens, keeps or uses any place, or permits any place to be opened, kept or used for the purpose of an opium smoking assembly, or has the care or management of, or in any way assists in conducting the business of, any place used or kept for the purposes aforesaid, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months, or with fine which may extend to Rs. 1,000, or with both. Penalty for opening, keeping or having charge of place of assembly.

9. Whoever, being the owner of any place and knowing or having reason to believe that such place, whether in his actual occupation or otherwise, is being or is about to be used for the purpose of an opium smoking assembly, fails, either himself or through his agent or servant, to give the earliest possible notice of such knowledge or belief to the Collector or the officer in charge of the nearest police station, or to an officer empowered under this Act to investigate offences punishable under this Act, shall, on conviction, be punishable with fine which may extend to Rs. 500. Penalty when owner fails to give notice of use of place for such assembly.

10. Whoever, having been convicted of an offence under section 7, section 8 or section 9, is again convicted of an offence under any of the said sections, shall, on conviction, be liable for any such subsequent offence to an enhanced punishment not exceeding double the punishment which might be imposed on a first conviction for such offence. Penalty for subsequent offences.

11. (*1*) Whenever any person is convicted of an offence punishable under this Chapter, and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under this Chapter, the court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix. Security for abstaining from offences.

(*2*) The bond shall be in the form contained in the Schedule annexed to this Act and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond, as if it were a bond to keep the peace ordered to be executed under section 106 of that Code. V of 1898.

(*3*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(*4*) An order under this section may also be made by an appellate court or by the High Court when exercising its power of revision.

CHAPTER IV.

PROCEDURE.

12. The Commissioner, Collector or any officer of the Excise Department duly empowered or a Magistrate authorized under section 24 to take cognizance of offences under this Act may issue a warrant for the arrest of any person whom he has reason to believe, to have committed an offence under this Act, or for the search, whether by day or by night, of any place in which he has reason to believe that an offence under this Act has been, or is being or is likely to be committed, or in which opium, an instrument of smoking or an apparatus used in the preparation of opium is kept or concealed. Power to issue warrants.

Power of entry, search and arrest by certain officer.

13. The Commissioner, Collector or any officer duly empowered, who has reason to believe that an offence under Chapter III has been, or is being or is likely to be, committed in any place, may—

(*a*) enter such place by day or by night with any persons whose assistance he may consider necessary,

(*b*) search any such place in which he has reason to believe that any opium, or instrument of smoking, or any apparatus used in the preparation of opium is kept or concealed,

(*c*) detain and search, and, if he thinks proper, arrest any person found in such place or whom he has reason to believe to have committed an offence punishable under Chapter III, and

(*d*) seize all opium and instruments of smoking and any apparatus used in the preparation of opium which may be found in such place or on or about such person.

Arrest of persons obstructing officers in execution of duties under the Act.

14. The Commissioner, Collector or any officer duly empowered may arrest, without an order from a magistrate and without warrant, any person who obstructs him in the execution of his duty under this Act, or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

Mode of making searches and arrests.

15. (*1*) The provisions of the Code of Criminal Procedure, 1898, shall apply, so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests and searches made under this Act. V of 1898.

(*2*) All such warrants shall be executed by a police officer, or an officer of the Excise Department duly empowered in this behalf or if the officer issuing the warrant deems fit by any other person :

Provided that no search shall, in the absence of local search witnesses, be deemed to be illegal or defective or irregular, if such absence is explained to the satisfaction of the court.

Disposal of persons arrested and of articles seized.

16. (*1*) Every person arrested and article seized under a warrant issued under section 12 shall be forwarded without delay to the authority by whom the warrant was issued, and every person arrested and article seized under section 13 or section 14 shall be forwarded without delay to—

(*a*) the nearest officer of the Excise Department empowered under section 18, or

(*b*) (*i*) in [1][the Greater Bombay] to the nearest officer in charge of a section within the meaning of the City of Bombay Police Act, 1902, and Bom. IV of 1902.

(*ii*) elsewhere, to the officer in charge of the nearest police station within the meaning of the Code of Criminal Procedure, 1898. V of 1898.

(*2*) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal, according to law, of such person or article.

Refusal to give name and residence.

17. (*1*) When any person who, in the presence of any officer of such rank as the [2][Provincial Government] may, by general or special order, specify in this behalf, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and residence may be ascertained.

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[1] These words were substituted by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

[2] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

(2) When the correct name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a magistrate, if so required :

Provided that if such person is not resident in British India the bond shall be secured by a surety or sureties residing in British India.

(3) Should the correct name and residence of such person not be ascertained within 24 hours from the time of arrest, and should he fail to execute the bond, or, if he is so required to furnish sufficient sureties, he shall be forthwith forwarded to the nearest magistrate having jurisdiction.

Certain officers empowered to investigate offences under the Act.

18. (1) The Commissioner, Collector and any officer of the Excise Department duly empowered in this behalf shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

V of 1898.

(2) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence :

Provided that—

(a) if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a magistrate or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required, before a magistrate and shall make a full report of the case to his superior officer, if any, and be guided by the order which he shall receive on such report ;

(b) the powers of such officers other than the Commissioner or Collector shall be subject to such further modifications or restrictions as the [1][Provincial Government] may determine.

Offences under the Act to be bailable.

19. (1) All offences punishable under this Act shall be bailable.

V of 1898.

(2) Any officer authorized under section 18 to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence punishable under this Act.

Articles seized during investigation.

20. When anything has been seized by any officer exercising powers under section 18, such officer, after such inquiry as may be necessary—

(a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the magistrate to whom such person is forwarded or before whom bail has been taken for his appearance ;

(b) if it appears that such thing is liable to confiscation, but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to his superior officer, if any ;

(c) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to his superior officer, if any, accordingly.

[1] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

Officers and persons required to assist in detection of offences under the Act.

21. All village officers, all village servants useful to Government and all officers of the Departments of Police, Forest, Customs, Salt Revenue and all persons in the employment of the Bombay Port Trust shall be bound—

(*a*) to give immediate information to any of the officers mentioned in section 12 or section 13 or section 18 of the commission of any offence and of the intention or preparation to commit any offence under this Act which may come to their knowledge ;

(*b*) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed ; and

(*c*) assist such officer in carrying out the provisions of this Act.

Penalty for neglecting to assist officers acting under the Act.

22. Any officer or person mentioned in the preceding section who without lawful excuse neglects or refuses to give information or to take preventive measures or to give assistance to any of the officers mentioned in section 12 or section 13 or section 18 in the manner required by the preceding section shall, on conviction, be punishable with fine which may extend to Rs. 500.

Penalty for vexatious search or arrest.

23. Any officer empowered under this Act who—

(*a*) without reasonable ground of suspicion, enters or searches, or causes to be searched any place, or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretext of seizing or searching for anything liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person shall, on conviction, be punishable with fine which may extend to Rs. 500.

Jurisdiction.

24. No Magistrate other than a Presidency Magistrate, or a Magistrate of the First Class, or a Magistrate of the Second Class duly empowered in this behalf, shall take cognizance of any offence under this Act.

Cognizance of offences.

25. No magistrate shall take cognizance of any offence punishable under this Act,—

(*a*) except on the complaint or report of the Commissioner or a Collector or any other officer duly empowered under section 12 or a police officer, or

(*b*) except upon his own knowledge or suspicion.

Things liable to confiscation.

26. Whenever any offence under this Act has been committed, all opium, prepared opium, instruments of smoking and apparatus used in the preparation of opium found in the place or with the persons forming an opium smoking assembly, together with the receptacles, packages, coverings, animals, carts, vessels or other conveyances used in carrying them shall be liable to confiscation.

Procedure in making confiscation.

27. (*1*) In the trial of offences under this Act, whether the accused is convicted or acquitted, the court shall decide whether any article seized under this Act is liable to confiscation under the preceding section, and if it decides that the article is so liable, it may order its confiscation accordingly.

(*2*) When any article seized under this Act appears liable to confiscation under the preceding section but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer duly empowered in this behalf may inquire into and decide such liability and may order confiscation accordingly :

Provided that no order of confiscation of an article shall be made until the expiry of one month from the date of seizure or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in support of his claim :

Provided further that if any such article, other than opium, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(*3*) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

CHAPTER V.

MISCELLANEOUS.

Delegation of powers.

28. The powers conferred on the Commissioner or Collector under this Act may, subject to the general or special orders of [1][the Provincial Government], be delegated by the Commissioner or Collector, as the case may be, in whole or in part, to any subordinate officer.

Power to make rules.

29. (*1*) The [2][Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes :—

(*a*) regulating the disposal of things confiscated,

(*b*) prescribing and regulating the payment of rewards out of fines imposed under this Act,

(*c*) providing for any other matter for which there is no provision or there is insufficient provision in this Act and for which provision is, in the opinion of the [2][Provincial Government], necessary for giving effect to the provisions of this Act.

(*3*) Rules made under this section shall be subject to the condition of previous publication in the [3][*Official Gazette*].

(*4*) Rules made under this section shall be laid [4][before each Chamber of the Provincial Legislature] at the session [5][thereof] next following and shall be liable to be modified or rescinded by a resolution [6][in which both the Chambers concur], and such rule shall, after notification in the [3][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Provincial Government" were substituted for the words "local Government", *ibid.*

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[4] The words "before each Chamber of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[5] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[6] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

Provided that when, in the opinion of the [1][Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][Provincial Government] may, by notification in the [2][*Official Gazette*], declare that such modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Protection of persons acting in good faith, and limitation of suits or prosecutions.

30. (*1*) No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against [3][the Crown] and no prosecution or suit shall lie against any officer in respect of anything done or alleged to have been done in pursuance of this Act, unless such suit or prosecution has been instituted within three months of the date of the act complained of.

Certain officers to be public servants.

31. All officers empowered under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

SCHEDULE.

Bond to abstain from the commission of offences under the Bombay Opium Smoking Act, 1936.

(Section 11.)

Whereas I (name) inhabitant of (place) , have been called upon to enter into a bond to abstain from the commission of offences under section 7, section 8 and section 9, of the Bombay Opium Smoking Act, 1936, for the term of I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to His Majesty the King-Emperor of India, the sum of rupees.

Dated this day of 19

(Signature)

(Where a bond with sureties is to be executed, add—)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 7, section 8 and section 9 of the Bombay Opium Smoking Act, 1936, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to His Majesty the King-Emperor of India, the sum of rupees

Dated this day of 19

(Signature)

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "the Crown" were substituted for the words "Government", *ibid.*

THE PARSI PUBLIC TRUSTS REGISTRATION ACT, 1936.

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25. Power of Provincial Government to make rules.

BOMBAY ACT No. XXIII OF 1936.[1]

[THE PARSI PUBLIC TRUSTS REGISTRATION ACT, 1936.]

[*31st December 1936.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 10 of 1944.*
Amended by Bom. 17 of 1945.†

An Act to make provision for the registration, publication and inspection of Trusts created or existing for a public purpose for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect thereof.

WHEREAS it is expedient to provide for the registration, publication and inspection of Trusts created or existing for a public purpose of a charitable or religious nature for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect of the same; AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

1. (*1*) This Act may be called the Parsi Public Trusts Registration Act, 1936. Short title and extent.

(*2*) It extends to the whole of the Bombay Presidency.

(*3*) [2][The Provincial Government] may, by notification in the [3][*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

2. (*1*) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Parsi community or any section of such community and, having an annual gross income of not less than Rs. 1,000. Application.

(*2*) [2][The Provincial Government] may by notification in the [3][*Official Gazette*] exempt any trust or any class of trusts from all or any of the provisions of this Act.

(*3*) In the case of a public trust of which the author belongs to the Parsi community and which is created or exists not solely for the benefit of the said community, [2][the Provincial Government] may, on application of such author, or, if such author is dead, of the majority of the trustees of such trust, by notification in the [3][*Official Gazette*] apply all or any of the provisions of this Act to such trust.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 348–349; for Report of the Select Committee, *see Bombay Government Gazette*, 1936, Part V, pp. 96–103; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*," *ibid.*

* This Act was re-enacted by Bom. 25 of 1948, s. 3.

† This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

(*4*) The provisions of the Bombay Public Trust Registration Act, 1935, shall not apply to any public trust to which any of the provisions of this Act apply. Bom. XXV of 1935.

Definitions.

3. In this Act unless there is anything repugnant in the subject or context,—

(*1*) "Manager" means a trustee or any other person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(*2*) "Prescribed" means prescribed by rules made under this Act.

(*3*) "Public trust" means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(*4*) "Registrar" means a person appointed under section 4 to exercise the powers and perform the duties of a Registrar of Parsi Public Trusts under this Act.

(*5*) "Rules" means rules made under this Act.

(*6*) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of 1882.

Appointment of Registrars.

4. [1][The Provincial Government] may appoint officers belonging to the Judicial Service not below the rank of a Subordinate Judge of the First Class or a Judge of a Court of Small Causes to be Registrars of Parsi public trusts for the purposes of this Act, and may define the district or area within which each of them shall exercise his powers and perform his duties.

Obligation to furnish particulars relating to public trusts.

5. (*1*) Every manager of the property of a public trust shall, in the case of—

(*i*) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

(*ii*) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust,

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate or the property or funds of such trust or any substantial portion thereof are for the time being administered a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars :—

(*a*) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

(*b*) the description of the trust property, both moveable and immovable, sufficient for the identification thereof, and the approximate value thereof,

(*c*) the gross average annual income of such property estimated on the income of the three years immediately preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(*d*) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (*c*) relate,

(*e*) any other particulars as may be prescribed.

(*2*) A copy of the deed or instrument creating the public trust or such extract thereof as in the opinion of the Registrar sufficiently shows the origin, nature and object of such trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*3*) Such statement shall be signed by the manager or his agent specially authorized in this behalf.

(*4*) Every person signing the statement shall verify it in the manner prescribed.

(*5*) The Registrar may for sufficient cause extend the period for furnishing a statement under this section.

Power of Registrar to hold inquiry.

6. (*1*) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain—

(*i*) whether a trust is a public trust,

(*ii*) whether any property is the property of such trust,

(*iii*) whether the whole or any substantial portion of the subject matter of the trust is situate, or whether the property or funds of such trust or any substantial portion thereof are for the time being administered, within his jurisdiction,

(*iv*) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(*v*) the origin, nature and object of such trust,

(*vi*) the amounts of gross average annual income and expenditure of such trust, and

(*vii*) any other particulars as may be prescribed under sub-section (*1*) of section 5.

(*2*) The petition referred to in sub-section (*1*) shall show in what way the petitioner claims to be interested in the public trust and shall be signed and verified in the manner prescribed for the signing and verification of a statement under section 5.

(*3*) If it comes to the knowledge of the Registrar that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (*1*), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(*4*) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(*5*) On completion of the enquiry provided for in sub-sections (*1*) and (*4*), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

(*6*) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters :—

V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath,

(*b*) compelling the production of documents and material objects,

(*c*) issuing commissions for the examination of witnesses,

(*d*) proof of facts by affidavits.

(*7*) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

Register of Parsi Public Trusts.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the Register of Parsi Public Trusts and shall file the statement, if any.

Amendment of entries in Register.

8. (*1*) When any change occurs in any of the particulars recorded in the Register of Parsi Public Trusts, the manager shall, within six months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Parsi Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(*3*) If the Registrar, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section (*2*), or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Parsi Public Trusts with regard to a public trust, he shall amend in the prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (*1*) along with the statement, if any, relating to the said trust filed under section 5.

Stay of inquiry or entry in Register.

9. (*1*) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Parsi Public Trusts by the Registrar of any other district or area.

(*2*) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [1][the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

Entries in Register to be final subject to section 11.

10. (*1*) Entries made by the Registrar in the Register of Parsi Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

(*2*) Nothing in this section shall be deemed to bar in any way the right of any person aggrieved by any such entry to institute a suit in a court of competent jurisdiction in regard to any matter affected by such entry.

Amendment of Register by order of Court.

11. A Civil Court of competent jurisdiction deciding any question relating to any trust to which this Act applies or in respect of which any entry has been recorded in a Register of Parsi Public Trusts shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Parsi Public Trusts relating to the said trust in accordance with its decision.

Maintenance of accounts and their audit.

12. (*1*) Every manager of a public trust in respect of which an entry has been recorded in the Register of Parsi Public Trusts under section 6 shall keep regular accounts of all moveable and immovable properties, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) The accounts shall be balanced each year on the thirty-first day of March, or such other date, as the manager of any particular public trust may at his option choose in regard to such trust: provided that when such date is so chosen, the manager shall as soon as practicable intimate to the Registrar the date so chosen; provided further that the date so chosen may be altered only with the consent of the Registrar and subject to such conditions as he may think fit to impose. The accounts so balanced shall be examined and audited annually in such manner and by a person who is the holder of a certificate granted under section 144 of the Indian Companies Act, 1913, or by such persons as may be prescribed.

VII of 1913.

(*3*) Every auditor acting under sub-section (*2*) shall have access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(*4*) Within six months after the thirty-first day of March, or such other date, as may be chosen by the manager in any particular case, under sub-section (*2*) of the year for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto:

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

Exception.—Nothing in this section shall apply—

(*1*) to any public trust in respect of which a scheme has been settled under section 92, Civil Procedure Code, 1908, and such scheme requires the submission of accounts of such trusts to the court and audit thereof by any person appointed or approved by the court, or

V of 1908.

(*2*) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator General or the Official Trustee.

13. Notwithstanding anything contained in the deed or instrument creating any trust, every manager may pay from the income of the trust property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 5 or section 6 or in respect of the preparation or audit of the annual accounts for the purpose of this Act.

Trustees entitled to pay costs of audit, etc., from trust funds.

14. Any person who in the opinion of the Registrar has an interest in any public trust shall, on payment of the prescribed fee, be entitled to inspect in the prescribed manner or to obtain a copy of any statement of particulars or any other document furnished to the Registrar under section 5 or section 6 or any statement of accounts furnished to him under section 12 (*4*) or any audit report made on an audit under section 12 (*2*) relating to such trust.

Inspection and copies.

15. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Parsi Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed:

Annual contribution from Parsi Public Trusts.

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

Explanation.—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

Parsi Public Trusts Administration Fund.

16. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Parsi Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely :—

(*a*) any fees which may be levied under section 5, 8 or 14,

(*b*) contributions under section 15,

(*c*) any sums received by the Parsi Public Trusts Administration Fund from private sources,

(*d*) any sums allotted by [1][the Provincial Government] or by any local authority to the Parsi Public Trusts Administration Fund.

Explanation.—For the purposes of this section [2][the Greater Bombay] shall be deemed to be a district.

Application of Parsi Public Trusts Administration Fund.

17. The Parsi Public Trusts Administration Fund of a district or any area as created under section 16 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

Special audit.

18. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee or manager from the income of the property of the public trust or out of the Parsi Public Trusts Administration Fund.

Publication of list of Parsi Public Trusts.

19. Every Registrar shall publish annually under his signature, in the [3][*Official Gazette*] and [4][if the Provincial Government so directs] in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Parsi Public Trusts Administration Fund, in such form and on such date as [1][the Provincial Government] may prescribe.

Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.

20. (*1*) If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits a statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

(*2*) If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] These words were substituted for the original by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] These words were inserted by Bom. 10 of 1944, read with Bom. 25 of 1948, s. 3.

(*3*) If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100. Penalty for failure to comply with the order of Registrar.

(*4*) Any Court may, in passing an order of conviction and sentence for any of the offences under sub-section (*1*), (*2*) or (*3*), specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified : Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failure to do so and applies for extension of the period specified under this section, the Court may, if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

21. (*1*) No prosecution under this Act shall be instituted except on the complaint of the Registrar within whose jurisdiction the whole or a substantial portion of the property of the public trust in respect of which the offence is committed is situate or within whose jurisdiction the property or funds of such trust or any substantial portion thereof are for the time being administered. Cognizance of offences.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence under this Act.

22. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Registrar to be deemed a public servant.

XLV of 1860.

23. No action for damages and no prosecution shall lie against any person for anything which is in good faith done or intended to be done under this Act. Bar of prosecution of persons acting in good faith.

24. All sums due under this Act shall be recoverable as arrears of land revenue. Recovery of sums due under this Act.

25. (*1*) [1][The Provincial Government] may make rules for the purpose of carrying into effect the provisions of this Act. Power of Provincial Government to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely :—

(*a*) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (*1*).

(*b*) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (*1*), clause (*e*).

(*c*) Prescribing the manner in which the statement furnished to the Registrar shall be verified under section 5 (*4*).

(*d*) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(*e*) Prescribing the form of Register of Parsi Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (*3*).

[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*f*) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(*g*) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (*1*).

(*h*) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (*2*) and 18.

(*i*) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (*4*).

(*j*) Prescribing the fee payable for the inspection of the Register of Parsi Public Trusts under section 14.

(*k*) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 14.

(*l*) Prescribing the fee payable for obtaining certified copies of entries in the Register of Parsi Public Trusts and of documents filed with the Registrar under section 14.

(*m*) Prescribing the amount of contribution payable by a Public Trust and the date and the manner of such payment under section 15.

(*n*) Prescribing the objects in addition to those specified in section 17, to which the Parsi Public Trusts Administration Fund shall be applied under the said section.

(*o*) Any other matter not specifically provided for in this Act, but which in the opinion of [1][the Provincial Government] is necessary for carrying into effect the provisions of this Act :

Provided that the rules made under clauses (*a*), (*f*), (*j*) and (*m*) shall provide for such adjustment from time to time of the rates of fees payable under sections 5, 8 and 14 and the contributions payable under section 15 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Parsi Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of [1][the Provincial Government] for payment of the charges and expenses referred to in section 17.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [2][*Official Gazette*].

(*4*) Rules made under this section shall be laid [3][before each Chamber of the Provincial Legislature] at the session [4][thereof], next following and shall be liable to be modified or rescinded by a statutory motion [5][carried in both the Chambers] and such rules shall, after notification in the [2][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [1][the Provincial Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [1][the Provincial Government] may, by notification in the [2][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[3] The words "before each Chamber of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council", *ibid.*

[4] The word "thereof" was substituted for the words "of the said Council", *ibid.*

[5] The words "carried in both the Chambers" were substituted for the words "of the said Council", *ibid.*

THE BOMBAY LEGISLATURE MEMBERS (REMOVAL OF DISQUALIFICATIONS) ACT, 1937.

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PREAMBLE.

SECTIONS.

1. Short title.
2. Removal of certain disqualifications.
3. Act to come into force on 1st April 1937.

SCHEDULE.

BOMBAY ACT No. I OF 1937.[1]

[THE BOMBAY LEGISLATURE MEMBERS (REMOVAL OF DISQUALIFICATIONS) ACT, 1937.]

[*18th October 1937.*]

An Act to provide for the removal of certain disqualifications for being chosen as and for being a member of the Bombay Legislative Assembly and the Bombay Legislative Council.

WHEREAS by the Government of India Act, 1935, provision has been made for declaring by Act of the Provincial Legislature any office of profit under the Crown in India not to disqualify its holder for being chosen as and for being a member of a Provincial Legislature; and whereas it is expedient to make such declaration; It is hereby enacted as follows:—

26 Geo. 5, c. 2.

1. This Act may be called the Bombay Legislature Members (Removal of Disqualifications) Act, 1937.

Short title.

2. A person shall not be disqualified for being chosen as, or for being a member of, the Bombay Legislative Assembly or the Bombay Legislative Council merely by reason of the fact that he holds any of the offices specified in the Schedule appended hereto.

Removal of certain disqualifications.

3. The provisions of this Act shall be deemed to have come into force on the 1st day of April 1937.

Act to come into force on 1st April 1937.

SCHEDULE.

1. The office of Parliamentary Secretaries to the Ministers of the Government of Bombay.

2. The office of Part-time Professors or Lecuturers in a Government College.

3. Any office in the service of a State Railway, when such office is held by a person standing for election, or elected as a member of the Bombay Legislative Assembly by Ralway Unions Labour Constituency.

4. Any office in the Indian Territorial Force.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Part V, p. 30; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1937, Vol. I, pp. 294–316; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1937, Vol. I, pp. 169-176.

THE BOMBAY LEGISLATIVE COUNCIL (PRESIDENT AND DEPUTY PRESIDENT) AND THE BOMBAY LEGISLATIVE ASSEMBLY. (SPEAKER AND DEPUTY SPEAKER) SALARIES ACT, 1937

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Sums to be paid to President and Speaker.
4. President or Speaker not to practise any profession or engage in any trade, etc.
5. Salary of Deputy President and Deputy Speaker.
6. Deputy President and Deputy Speaker not debarred from receiving salaries and allowances as Members of the Legislature.

BOMBAY ACT No. II OF 1937.[1]

[THE BOMBAY LEGISLATIVE COUNCIL (PRESIDENT AND DEPUTY PRESIDENT) AND THE BOMBAY LEGISLATIVE ASSEMBLY (SPEAKER AND DEPUTY SPEAKER) SALARIES ACT, 1937.]

[*22nd October 1937.*]

Amended by Bom. 12 of 1946.*

An Act to provide for the salaries of the Presiden and the Deputy President of the Bombay Legislative Council and of the Speaker and the Deputy Speaker of the Bombay Legislative Assembly and certain other matters.

26 Geo. 5, c. 2. WHEREAS by the Government of India Act, 1935, provision has been made for the determination of the salaries of the President and the Deputy President of the Bombay Legislative Council and of the Speaker and the Deputy Speaker of the Bombay Legislative Assembly by Act of the Provincial Legislature; and whereas it is expedient to determine such salaries and to provide for other matters as hereinafter specified; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Legislative Council (President and Deputy President) and the Bombay Legislative Assembly (Speaker and Deputy Speaker) Salaries Act, 1937.

Definitions.

2. In this Act—

26 Geo. 5, c. 2.

(*1*) "Assembly" means the Bombay Legislative Assembly constituted under the Government of India Act, 1935.

26 Geo. 5, c. 2.

(*2*) "Council" means the Bombay Legislative Council constituted under the Government of India Act, 1935.

(*3*) "Deputy President" means the Deputy President of the Council.

(*4*) "Deputy Speaker" means the Deputy Speaker of the Assembly.

(*5*) "President" means the President of the Council.

(*6*) "Speaker" means the Speaker of the Assembly.

Sums to be paid to President and Speaker.

3. There shall be paid to the President and the Speaker each—

(*a*) a salary at the rate of Rs. [2][850] per month;

(*b*) a house allowance at the rate of Rs. [2][200] per month, provided that such allowance shall not be paid to the President or the Speaker if such President or Speaker is provided by the Government [3][with a furnished house] without payment of rent, or any assessment, tax, rate or cess due to Government or any local authority; and

(*c*) an allowance for the maintenance of a motor car at the rate of Rs. [2][200] per month.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, p. 28; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1937, Vol. I, pp. 281—289; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1937, Vol. I, pp. 167—168.

[2] These figures were substituted for the original by Bom. 12 of 1946, s. 2.

[3] These words were substituted for the original, *ibid.*

*The amendments made by this Act shall be deemed to have been made on and to have effect from the 3rd day of April 1946.

President or Speaker not to practise any profession or engage in any trade, etc.

4. The President and the Speaker shall not practise any profession or engage in any trade or undertake for remuneration any employment other than their duties as President and Speaker respectively.

Salary of Deputy President and Deputy Speaker.

5. There shall be paid to the Deputy President and the Deputy Speaker each a salary at the rate of Rs. [1][200] per month.

Deputy President and Deputy Speaker not debarred from receiving salaries and allowances as Members of the Legislature.

6. Nothing in this Act shall be deemed to debar the Deputy President or the Deputy Speaker from being entitled to receive any salary or allowances as a Member of the Legislature under section 72 of the Government of India Act, 1935, or any Act which may be made in that behalf by the Provincial Legislature. 26 Geo. 5, c. 2.

[1] These figures were substituted for the figures "100" by Bom. 12 of 1946, s. 3.

THE BOMBAY LEGISLATURE MEMBERS' SALARIES AND ALLOWANCES ACT, 1937.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Salaries and allowances to be paid to Members.
4. Minister, President or Speaker or Parliamentary Secretary not entitled to salary or allowances under this Act.
5. Power of Provincial Government to make rules.

BOMBAY ACT No. III OF 1937.[1]

[THE BOMBAY LEGISLATURE MEMBERS' SALARIES AND ALLOWANCES Act, 1937.]

[*23rd October 1937.*]

Amended by Bom. 11 of 1946*.

An Act to provide for the salaries and allowances of Members of the Bombay Legislature.

WHEREAS it is expedient to provide for the salaries and allowances of Members of the Bombay Legislature; It is hereby enacted as follows:—

1. This Act may be called the Bombay Legislature Members' Salaries and Allowances Act, 1937. Short title.

2. In this Act— Definition.

(*1*) "Assembly" means the Bombay Legislative Assembly constituted under the said Act.

(*2*) "Chamber" means the Assembly or the Council, as the case may be.

(*3*) "Council" means the Bombay Legislative Council constituted under the said Act.

(*4*) "Member" means the Member of a Chamber.

(*5*) "Minister" means a Minister chosen and for the time being holding the office of a Minister under section 51 of the said Act.

(*6*) "Parliamentary Secretary" means the Parliamentary Secretary to the Minister.

(*7*) "President" means the President of the Council.

(*8*) "Speaker" means the Speaker of the Assembly.

26 Geo. 5, c. 2. (*9*) "The said Act" means the Government of India Act, 1935.

3. [2][(*1*)] There shall be paid to each Member— Salaries and allowances to be paid to Members.

(*a*) a salary at the rate of Rs. [3][150] per month;

(*b*) a daily allowance at the rate of Rs. [4][5] for each day of the period of residence for the purpose of attending the session of a Chamber or the meeting of a Committee of such Chamber at the place where such session or meeting is held; and

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, p. 36; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1937, Vol. I, pp. 1016-1043, 1045-1066, 1253-1261; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1937, Vol. I, pp. 218-237.

[2] This section was renumbered as 3 (*1*) by Bom. 11 of 1946, s. 2.

[3] These figures were substituted for the figures "75", *ibid.*

[4] This figure was substituted for the figure "3", *ibid.*

*The amendments made by this Act shall be deemed to have been made on and to have effect from the 3rd day of April 1946.

(*c*) a travelling allowance for journey undertaken for the said purpose to such place and for return journey from such place—

(*i*) at such rate not exceeding double the fare of such class provided on railway or steamer, as may be prescribed by the Provincial Government, and

(*ii*) at such rate per mile for journey by road, sea or river in addition to the journey by railway or steamer, as may be prescribed by the Provincial Government:

Provided that nothing in this [1][sub-section] shall entitle a member to daily and travelling allowances, if such member ordinarily resides or carries on business at the place where the session of the Chamber or the meeting of the Committee is held.

[2][(*2*) Notwithstanding anything contained in sub-section (*1*) there shall be paid to each Member a conveyance allowance at the rate of Rs. 3 per day for each day on which he attends the session of a Chamber or the meeting of a Committee of such Chamber.]

Minister, President or Speaker or Parliamentary Secretary not entitled to salary or allowances under this Act.

4. Notwithstanding anything contained in this Act, a Minister, the President or Speaker or a Parliamentary Secretary shall not be entitled to any salary or travelling allowance under this Act by reason of the fact that such Minister, President or Speaker, or a Parliamentary Secretary is a Member.

Power of Provincial Government to make rules.

5. (*1*) As respects all matters for which no express provision has been made in this Act the Provincial Government may make rules for the purpose of carrying out the purposes of this Act.

(*2*) Rules made under this section shall have effect as if enacted in this Act.

[1] This word was substituted for the original by Bom. 11 of 1946, s. 2.
[2] This sub-section was added, *ibid.*

THE BOMBAY MINISTERS' SALARIES ACT, 1937.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Sums to be paid to Ministers.

BOMBAY ACT No. IV OF 1937.[1]

[THE BOMBAY MINISTERS' SALARIES ACT, 1937.]

[*28th October 1937.*]

Amended by Bom. 13 of 1946.*

An Act to provide for the salaries of the Ministers of the Government of Bombay and certain other matters.

26 Geo. 5, c. 2.

WHEREAS provision has been made in sub-section (*3*) of section 51 of the Government of India Act, 1935, for the determination of the salaries of the Ministers by Act of the Provincial Legislature; and whereas it is expedient to provide for the determination of such salaries and other matters as hereinafter specified; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Ministers' Salaries Act, 1937.

Sums to be paid to Ministers.

26 Geo. 5, c. 2.

2. There shall be paid to the Prime Minister and each of the other Ministers of the Government of Bombay, chosen under section 51 of the Government of India Act, 1935:—

(*a*) a salary at the rate of Rs. [2][850] per month;

(*b*) a house allowance at the rate of Rs. [2][200] per month, provided that such allowance shall not be paid to any Minister if such Minister is provided by the Government with [3][a furnished house] without payment of rent or any assessment, tax, rate or cess due to Government or any local authority; and

(*c*) an allowance for the maintenance of motor car at the rate of Rs. [2][200] per month.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, p. 25; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1937, Vol. I, pp. 244–280; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1937, Vol. I, pp. 153–167.

[2] These figures were substituted for the original by Bom. 13 of 1946, s. 2.

[3] These words were substituted for the original, *ibid.*

* The amendments made by this Act shall be deemed to have been made on and to have effect from the 3rd day of April 1946.

THE INDIAN LIMITATION (BOMBAY AMENDMENT) ACT, 1937.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of First Schedule to Act IX of 1908.
3. Period of limitation for pending suits.

BOMBAY ACT No. VI OF 1937.[1]

[THE INDIAN LIMITATION (BOMBAY AMENDMENT) ACT, 1937.]

[*15th January 1938.*]

An Act to amend the Indian Limitation Act, 1908, in its application to the Province of Bombay.

IX of 1908. WHEREAS it is expedient to amend the Indian Limitation Act, 1908, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Indian Limitation (Bombay Amendment) Act, 1937. Short title.

IX of 1908. 2. In the First Schedule to the Indian Limitation Act, 1908, hereinafter called "the said Schedule"— Amendment of First Schedule to Act IX of 1908.

(*i*) Article 5 shall be repealed; and

(*ii*) After Article 64, the following new Article shall be inserted, namely :—

"64A.—Under the summary procedure referred to in section 128 (*2*) (*f*) of the Code of Civil Procedure, 1908, where the provision of such summary procedure does not exclude the ordinary procedure in such suits and under Order XXXVII of the said Code.	Three years.	When the debt or liquidated demand becomes payable or when the property becomes recoverable."

V of 1908.

3. Notwithstanding anything contained in section 2 of this Act, every suit of the nature specified in the said section pending at the date of the commencement of this Act either in a Court of first instance or of appeal shall be deemed to be governed by Article 5 in the said Schedule as if it had not been repealed. Period of limitation for pending suits.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, pp. 32–33; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1937, Vol. I, pp. 1014–1016; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1937, Vol. I, pp. 176-177.

THE BOMBAY PROVISIONAL COLLECTION OF TAXES ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Power to make declarations under this Act.
4. Effect of declarations under this Act, and duration thereof.
5. Certain refunds to be made when declarations cease to have effect.

BOMBAY ACT No. IV OF 1938.[1]

[THE BOMBAY PROVISIONAL COLLECTION OF TAXES ACT, 1938.]

[*3rd February 1938.*]

An Act to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes.

WHEREAS it is expedient to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes. ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Provisional Collection of Taxes Act, 1938. Short title

2. In this Act— Definitions.

(*1*) a "declared provision" means a provision in a Bill in respect of which a declaration has been made under section 3 ;

(*2*) "tax" includes any rate, cess, duty, fee, toll or other impost, whether general or local or special.

3. Where a Bill to be introduced in the Bombay Legislative Assembly on behalf of the Provincial Government provides for the imposition or increase of a tax, the Provincial Government may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act. Power to make declarations under this Act.

4. (*1*) A declared provision shall have the force of law from 5 p.m. (Standard Time) on the day on which the Bill containing it is introduced or published whichever day is earlier. Effect of declarations under this Act, and duration thereof.

(*2*) A declared provision shall cease to have the force of law under the provisions of this Act—

(*a*) when it comes into operation as an enactment, with or without amendment, or

(*b*) when the Provincial Government, in pursuance of a motion passed by the Bombay Legislative Assembly, directs, by notification in the Official Gazette, that it shall cease to have the force of law, or

(*c*) if it has not already ceased to have the force of law under clause (*a*) or clause (*b*), then on the expiry of the sixtieth day after the day on which the declared provision has the force of law under sub-section (*1*).

5. (*1*) Where a declared provision comes into operation as an enactment in an amended form before the expiry of the sixtieth day after the day on which such provision has the force of law under sub-section (*1*) of section 4, refunds shall be made of all taxes collected which would not have been collected if the provision adopted in the enactment had been the declared provision : Certain refunds to be made when declarations cease to have effect.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, p. 110 ; for Proceedings in the Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 2, pp. 46-53 and 319-322 ; and for Proceedings in the Council, *see* Bombay Legislative Council Debates, 1938, Vol. 2, pp. 15-27 and 179.

Provided that the rate at which refunds of any tax may be made under this sub-section shall not exceed the difference between the rate of such tax proposed in the declared provision and the rate in force immediately prior to the day on which the declared provision has the force of law under sub-section (*1*) of section 4.

(*2*) Where a declared provision ceases to have the force of law under clause (*b*) or clause (*c*) of sub-section (*2*) of section 4, refunds shall be made of all taxes collected which would not have been collected if the declaration in respect of it had not been made.

BOMBAY ACT No. XV OF 1938.[1]

[THE INDIAN LUNACY (BOMBAY AMENDMENT) ACT, 1938.]

[*24th June 1938.*]

An Act to amend the Indian Lunacy Act, 1912,[2] in its application to the Province of Bombay.

IV of 1912. WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Lunacy (Bombay Amendment) Act, 1938.

Insertion of new section 33A in Act IV of 1912.

IV of 1912. 2. In the Indian Lunacy Act, 1912, after section 33, the following new section shall be inserted, namely :—

Temporary release of lunatics.

"33A. (*1*) When any relative or friend of a lunatic detained in any asylum under the provisions of section 7, 10, 14, 15 or 17 is desirous that such lunatic shall be temporarily released and delivered over to his care and custody, he may make an application to the person in charge of the asylum, who shall make an order forthe temporary release of such lunatic for a period not exceeding sixty days, unless for any reason he considers that such release is undesirable and such lunatic shall, thereupon, be so released.

(*2*) No order under sub-section (*1*) for the temporary release of a lunatic detained under section 7 or 10 shall be passed except on an application of the petitioner on whose petition such lunatic was detained or without the consent in writing of such petitioner :

Provided that, if in any such case, it appears to the person in charge of the asylum that such petitioner refuses, without sufficient reasons, to accord such consent, he shall refer the application made to him under sub-section (*1*), to the magistrate who would have jurisdiction to detain such lunatic under section 7 or 10 and such magistrate may, after making such enquiry as he thinks fit, order the temporary release of such lunatic for the period specified in sub-section (*1*).

(*3*) Any order made for the release of a lunatic under sub-section (*1*) may, on the application of any relative or friend, at any time during the period of his release, be set aside, or varied by the magistrate who would have jurisdiction to detain such lunatic in an asylum under section 7, 10, 14, 15 or 17 on any ground other than that the lunatic was not in a state of mind fit to be released at the time the order for his release was made under sub-section (*1*). If the order of release is so set aside, the lunatic shall be re-admitted and detained in the asylum.

(*4*) If a lunatic released under sub-section (*1*) or (*2*) is, at any time during the period of his release, found to be unmanageable or dangerous and unfit to be at large, the person who applied for his release may take the lunatic to the asylum, and such lunatic shall thereupon be readmitted and detained in the asylum.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 301 and 302; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, pp. 1814–1828, 1918, 1954–1961 and 2565; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, pp. 319–321.

[2] *See* Unrepealed Central Acts, Vol. VI, p. 118.

(*5*) If a lunatic released under sub-section (*1*) or (*2*) does not return to the asylum at the expiration of the period for which he was released and if no order for his discharge has been passed under section 31 or section 33 or if he is, at any time during the period of his release, found to be unmanageable or dangerous or unfit to be at large and the person who applied for his release states by a written application to the person in charge of the asylum that he is unable to bring him to the asylum such lunatic shall be deemed to have escaped from the asylum and may at any time within one month after the expiration of the said period be re-taken to and detained in the asylum in the manner provided in section 36 :

Provided that such a person shall be deemed to be discharged if on or before the expiry of the period for which he was released, the Board of Visitors is satisfied either (*a*) as a result of investigations conducted by the person in charge of the asylum concerned or (*b*) on receipt of a certificate signed by a medical practitioner that the person may with safety be discharged."

BOMBAY ACT No. XVIII OF 1938.[1]

[THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1938.]

[*27th October 1938.*]

An Act to amend the Land Acquisition Act, 1894,[2] in its application to the Province of Bombay.

I of 1894. WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title. and extent.

1. (*1*) This Act may be called the Land Acquisition (Bombay Amendment) Act, 1938.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the Official Gazette appoint.

Amendment of sections 28 and 34 of Act I of 1894.

I of 1894. 2. In sections 28 and 34 of the Land Acquisition Act, 1894, for the word "six" the word "four" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, p. 493; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, p. 370; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 120 and 121.

[2] *See* Unrepealed Central Acts, Vol. III, p. 481.

THE BOMBAY PROBATION OF OFFENDERS ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Courts empowered to pass orders under the Act.
4. Power of Court to release certain convicted offenders after admonition.
5. Power of Court to release certain convicted offenders on probation of good conduct.
5A. Report of probation officer before making release, probation or supervision order.
6. Power of Court to require released offender to pay damages and costs and recovery of such damages and costs.
7. Appeal and power of court in appeal and revision.
8. Provision in case of offender failing to observe condition of release.
9. Provisions as to bonds.
10. Appointment of probation officers.
11. Duties of probation officers.
12. Variation of conditions of probation on application by probation officer.
12A. Probation officers to be public servants.
12B. Protection of persons acting in good faith.
13. Power to make rules.
14 Barring of operation of section 562 of Act V of 1898.
15. Saving of the Bombay Children Act and the Bombay Borstal Schools Act.

BOMBAY ACT No. XIX OF 1938.[1]

[THE BOMBAY PROBATION OF OFFENDERS ACT, 1938.]

[*28th October 1938.*]

Amended by Bom. 17 of 1945.†
Rep. in part by Bom. 38 of 1947.
Amended by Bom. 23 of 1949.

An Act to provide for the release on probation of offenders.

WHEREAS it is expedient to provide for the release on probation of offenders in certain cases and for other matters incidental thereto; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Bombay Probation of Offenders Act, 1938. Short title, extent and commencement.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) This Act shall come into force in such area and on such date as the Provincial Government may, by notification in the Official Gazette, direct.

V of 1898.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) the "Code" means the Code of Criminal Procedure, 1898;

(*b*) "Court" means a Court empowered to exercise powers under this Act;

(*c*) "Probation order" means an order made under sub-section (*1*) of section 5;

(*d*) "recognised society" means a society recognised by the Provincial Government for the purposes of section 10;

(*e*) "supervision order" means an order made under sub-section (*2*) of section 5; and

(*f*) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

3. (*1*) The following courts are hereby empowered to exercise powers under this Act, namely :— Courts empowered to pass orders under the Act.

(*a*) the High Court,

(*b*) a Court of Session,

(*c*) a District Magistrate,

(*d*) a Sub-Divisional Magistrate,

(*e*) a salaried Presidency Magistrate,

(*f*) a Magistrate of the first class,

(*g*) any other Magistrate specially empowered in this behalf.

(*2*) The powers conferred under sub-section (*1*) may be exercised by such Courts, whether the case comes before them originally or on appeal or in revision:

(*3*) Where any offender is convicted by a magistrate not empowered to exercise powers under this Act, and such magistrate is of opinion that the powers conferred by section 4 or 5 should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class or Sub-Divisional Magistrate forwarding the offender to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by section 380 of the Code.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 18 and 19; for Report of the Select Committee, *see Bombay Government Gazette*, 1938, Part V, pp. 178-181; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 2, pp. 411-439, 835-848, and also Vol. 3, pp. 2771-2772; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 3, pp. 350-526.

†This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E to the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Power of Court to release certain convicted offenders after admonition.

4. Notwithstanding anything contained in any enactments for the time being in force in any case in which a person is convicted of any offence punishable with not more than two years' imprisonment or fine or both and no previous conviction is proved against him, the Court by which he is so convicted, may, if it thinks fit having regard—

(*a*) to the age, character, antecedents or physical or mental condition of the offender, and

(*b*) to the nature of the offence or any extenuating circumstances under which the offence was committed

for reasons to be recorded in writing instead of sentencing him to any punishment, release him after due admonition.

Power of Court to release certain convicted offenders on probation of good conduct.

5. (*1*) Notwithstanding anything contained in any enactment for the time being in force, when—

(*a*) any male person is convicted of an offence not punishable with death or transportation for life, or

(*b*) any woman is convicted of an offence of any kind,

if it appears to the Court by which the offender is convicted, that regard being had to the age, character, antecedents or physical or mental condition of the offender, or to the circumstances in which the offence was committed, it is expedient that the offender should be released on probation of good conduct, the Court may, for reasons to be recorded in writing instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not being less than one year and not exceeding three years as the Court may direct, and in the meantime to keep the peace and be of good behaviour.

[1]* * * * *

(*2*) Where the offender appears to the Court to be under the age of twenty-five years, the Court may for reasons to be recorded in writing make an order, hereinafter called a supervision order, directing that the bond to be entered into under sub-section (*1*) shall contain a condition that the offender shall be under the supervision of a probation officer named in the order during the period specified therein and such other conditions as in the opinion of the Court may be necessary for securing such supervision :

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of twenty-six years.

(*3*) While making a supervision order the Court may also direct that the bond shall contain such additional conditions with respect to residence, abstention from intoxicants and any other matters which the Court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or a commission of other offences by the offender.

(*4*) A Court making a supervision order shall furnish the offender with a written statement of the conditions which he is required to observe.

Report of probation officer before making release, probation or supervision order.

[2][**5A.** (*1*) Before making an order of release under section 4, or a probation or supervision order under section 5, the Court may require any probation officer to submit to it a report as to—

(*a*) the character and age of the offender,

(*b*) the antecedents of the offender and the circumstances in which he is living, and

[1] The proviso to section 5 (*1*) was deleted by Bom. 38 of 1947, s. 2.

[2] This section was inserted by Bom. 23 of 1949, s. 2.

(c) such other matters as may, in the opinion of the Court, require to be taken into consideration before making such order.

(2) Any report submitted by the probation officer under sub-section (1) shall be treated as confidential:

Provided that the Court may, if it thinks expedient, communicate the substance thereof to the offender and may give the offender an opportunity to produce evidence as may be relevant to the matters stated in the report.]

Power of Court to require released offender to pay damages and costs and recovery of such damages and costs.

6. (1) A Court directing the release of an offender under section 4 or section 5 may order the offender to pay such compensation for loss or injury caused to any person by the offence and such costs of the proceedings as the Court thinks reasonable:

Provided that the amount of compensation and costs so awarded shall in no case exceed the amount of fine which the Court could have imposed in respect of the offence.

(2) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under sub-section (1).

(3) The amount ordered to be paid under this section may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

Appeal and powers and court in appeal and revision.

7. (1) Notwithstanding anything contained in the Code except in cases in which the offender has pleaded guilty, or where the order is passed by the High Court, an appeal shall lie from an order of conviction in every case in which an order is passed under section 4 or 5 to the Court to which appeals ordinarily lie under the Code.

(2) The Appellate Court or the High Court in the exercise of its powers of revision may pass any such order as it could have passed under the Code, or may set aside an order under section 4 or 5 and in lieu thereof pass sentence on such offender according to law:

Provided that the Appellate Court or the High Court in revision shall not inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

Provision in case of offender failing to observe condition of release.

8. (1) If the Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon, or any Court which could have dealt with the offender in respect of his original offence, has reason to believe that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his arrest or may, if it thinks fit, issue a summons to the offender and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

(2) The Court before which an offender is brought or appears under sub-section (1) may either remand him to custody until the case is heard or admit him to bail, with or without sureties, to appear on the date of hearing.

(3) If the Court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of his bond, including any conditions which may have been imposed under sub-section (2) or sub-section (3) of section 5, it may forthwith—

(a) sentence him for the original offence, or

(b) without prejudice to the continuance in force of the bond, impose upon him a fine not exceeding one hundred rupees:

Provided that the Court passing a sentence of fine under clause (*a*) or (*b*) shall take into account the amount of compensation ordered to be paid under section 6.

(*4*) If a fine imposed under clause (*b*) of sub-section (*3*) is not paid within such period as the Court may fix, the Court may sentence the offender for the original offence.

Provisions as to bonds.

9. The provisions of sections 122, 126A, 406A, 514, 514A, 514B and 515 of the Code, shall, so far as may be, apply in the case of sureties given under this Act. V of 1898.

Appointment of probation officers.

10. (*1*) A probation officer named in a supervision order may be—

(*a*) any person appointed to be a probation officer by the Provincial Government, or

(*b*) any person nominated for this purpose with the previous approval of the Provincial Government by a recognised society, or

(*c*) any other person who, in the opinion of the Court, is a fit person to act as a probation officer in the special circumstances of the case.

(*2*) A probation officer named under sub section (*1*) shall be a person who shall possess such qualifications as may be prescribed by rules made in this behalf.

(*3*) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

(*4*) The Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon, may at any time appoint another probation officer in place of the person named in the supervision order.

[1][*Explanation.*—In this section, in the Greater Bombay, "District Magistrate" means the "Chief Presidency Magistrate", and "district" means the area comprising the Greater Bombay.]

Duties of probation officers.

11. A probation officer shall, subject to the provisions of section 10 and rules made under this Act—

(*a*) visit or receive visits from the offender at such reasonable intervals as may be specified in the supervision order or, subject thereto, as the probation officer may think fit;

(*b*) see that the offender observes the conditions of the bond;

(*c*) report to the Court as to the behaviour of the offender;

(*d*) advise, assist and befriend the offender, and, when necessary, endeavour to find him suitable employment; and

(*e*) perform any other duty which may be prescribed by rules made under this Act.

Variation of conditions of probation on application by probation officer.

12. (*1*) The Court before which any person is bound by a bond under section 5 to appear and receive sentence may at any time upon the application of the probation officer or of its own motion, if it thinks that it is expedient that the terms or conditions of the bond should be varied, summon the offender to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the bond by extending or diminishing the duration thereof or by altering any of the conditions thereof or by inserting additional conditions therein:

Provided that, in no case, shall the duration of the bond be less than one year or more than three years from the date of the original order and where a supervision

[1] This explanation was substituted for the original by Bom. 17 of 1945, s. 9 and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

order has been made under sub-section (*2*) of section 5, the duration of the period of supervision extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of 26 years :

Provided further that in the case of a bond with a surety or sureties, no such variations shall be made without the consent thereto of such surety or sureties and that in the absence of such consent the Court shall in all such cases require the offender to enter into a new bond with or without sureties.

(*2*) Such Court may also, on the application made by the probation officer or of its own motion, on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond.

[1][**12A.** All probation officers acting under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Probation officers to be public servants.

XLV of 1860.

12B. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act]. Protection of persons acting in good faith.

13. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules—

(*a*) regulating the appointment, resignation and removal of probation officers and prescribing the qualifications of such officers ;

(*b*) prescribing and regulating the duties of probation officers ;

(*c*) regulating the remunerations and expenses payable to probation officers ; and

(*d*) specifying conditions on which societies may be recognised for the purposes of clause (*b*) of sub section (*1*) of section 10.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

14. In any area in which this Act is in force, no Court shall make an order under section 562 of the Code in respect of any first offender. Barring of operation of section 562 of Act V of 1898.

Bom. XIII of 1924. Bom. XVIII of 1929.

15. Nothing in this Act shall affect the provisions of the [2]Bombay Children Act, 1924, or the Bombay Borstal Schools Act, 1929. Saving of the Bombay Children Act and the Bombay Borstal Schools Act.

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[1] These sections were inserted by Bom. 23 of 1949, s. 3.

[2] See now the Bombay Children Act, 1948 (Bom. 71 of 1948).

THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 3A of Act XII of 1925.
3. Insertion of new section 3AA in Act XII of 1925.
4. Amendment of section 3B of Act XII of 1925.

BOMBAY ACT No. XX OF 1938.[1]

[THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1938.]

[*21st November 1938.*]

An Act to amend the Cotton Ginning and Pressing Factories Act, 1925,[2] in its application to the Province of Bombay.

XII of 1925. WHEREAS it is expedient to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1938.

Amendment of section 3A of Act XII of 1925.

2. In section 3A of the Cotton Ginning and Pressing Factories Act, 1925, hereinafter called the said Act—

(*1*) in clause (*a*) of sub-section (*2*) after the words "foreign substance", the words "or cotton waste" shall be inserted;

(*2*) sub-section (*3*) shall be deleted.

Insertion of new section 3AA in Act XII of 1925

3. After section 3A of the said Act, the following new section shall be inserted:—

Penalty for making any cotton wet.

"3AA. Any owner of cotton who knowingly makes or causes to be made any cotton which is ginned and which is being or is intended to be pressed in a cotton pressing factory, wet, or mixes or causes to be mixed seed, foreign substance or cotton waste with such cotton, or in any area specified in sub-section (*1*) of section 3A makes any admixture of cotton, or abets or knowingly allows or connives at any such act shall, on conviction, be punishable with fine which may extend to five thousand rupees."

Amendment of section 3B of Act XII of 1925.

4. In section 3B of the said Act, after the word, figure and letter "section 3A", the words, figure and letters "or section 3AA" shall be inserted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 444 and 445; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, pp. 368-370, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 115-120.

[2] *See* Unrepealed Central Acts, Vol. VIII, p. 155.

THE BOMBAY FORFEITED LANDS RESTORATION ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, commencement and extent.

2. Definitions.

3. Constitution of Tribunal.

4. Declaration that land is needed for restoration.

5. Notice to persons interested.

6. Power to require and enforce the making of statements, etc.

7. Inquiry by Tribunal and Award.

8. Procedure before Tribunal.

9. Amount of compensation.

10. Payment of amount awarded.

11. Arrangement instead of money compensation.

12. Award or arrangement to be final and conclusive.

13. Possession of land to be taken after declaration and land to vest absolutely in Provincial Government.

14. Rules.

BOMBAY ACT No. XXII OF 1938.[1]

[THE BOMBAY FORFEITED LANDS RESTORATION ACT, 1938.]

[*29th November 1938.*]

An Act to provide for the restoration of lands forfeited during the Civil Disobedience Movement for the non-payment of land revenue and other sums due to Government.

WHEREAS certain lands were forfeited as a result of the Civil Disobedience Movement for the non-payment of land revenue and other sums due to Government; And whereas the said lands were disposed of to certain persons for inadequate consideration; And whereas it is just and expedient to acquire them with a view to restore them to the original holders thereof; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Bombay Forfeited Lands Restoration Act, 1938. Short title, commencement and extent.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, direct.

2. In this Act, unless there is anything repugnant in the subject or context— Definitions.

(*1*) " Forfeited land " means any of the lands forfeited to the Crown during the Civil Disobedience Movement in any of the years 1930 to 1934 for non-payment of land revenue or other sums due to Government and specified in the notification published in the Official Gazette by the Provincial Government within six months from the date on which this Act comes into force. The expression " Forfeiture of lands " shall be construed accordingly.

(*2*) " Original holder " in relation to any forfeited land means a person who owned the land at the time of its forfeiture and includes his heirs.

(*3*) " Prescribed " means prescribed by rules.

(*4*) " Tribunal " means the Tribunal constituted under section 3.

(*5*) " Rules " means rules made under section 14.

(*6*) Words and expressions not defined in this Act but defined in the Land Acquisition Act, 1894, shall have the meanings assigned to them in that Act. 1 of 1894.

3. For the purposes of this Act, the Provincial Government shall constitute a Tribunal consisting of such member or members as the Provincial Government may appoint. If the Tribunal consists of one member, such member, and if it consists of more than one member, the President, shall be a person who is or has been a Judge of a High Court. Constitution of Tribunal.

4. (*1*) The Provincial Government, if it is satisfied that any of the forfeited lands is needed for a public purpose and should, therefore, in public interest be acquired and restored to the original holder, may make a declaration that the said land is needed for such purpose. Declaration that land is needed for restoration.

(*2*) The declaration shall be published in the Official Gazette and shall state all the material particulars in regard to the said land.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 551 and 552; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, pp. 2827–2898, 2902–2984, and 2988–3065; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 304–363.

(*3*) Such declaration shall be conclusive evidence that the said land is needed for such purpose.

Notice to persons interested.

5. (*1*) On the publication of the declaration under section 4, the Tribunal shall cause public notice to be given at convenient places at or near the land to be acquired stating that the Provincial Government intends to acquire the said land.

(*2*) Such notice shall also state the particulars of the said land and shall require all persons interested in the said land to appear personally or by agent before the Tribunal at the time and place therein mentioned (such time not being earlier than one month after the date of publication of the notice) and to state the nature of their respective interests in the said land and the amount and particulars of their claims to compensation for such interest.

(*3*) The Tribunal shall also serve notice by registered post to the same effect on the occupier, if any, of such land and on all persons known or believed to be interested therein.

(*4*) The original holder of the land and the Collector shall also be served with a notice by registered post intimating to them the time and place of the enquiry by the Tribunal and shall be entitled to appear in such enquiry either personally or by agent.

Power to require and enforce the making of statements, etc.

6. (*1*) The Tribunal may also by notice in writing require any person interested in the land to make or deliver to it at the time and place mentioned (such time not being earlier than one month from the date of such notice) a statement containing, so far as may be practicable, the name of any other person interested in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and particulars regarding the nature of such interest and the rents and profits, if any, received or receivable on account thereof.

(*2*) Every person required to make or deliver a statement under this section or under section 5 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860

Inquiry by Tribunal and Award.

7. (*1*) On the day fixed in the notice given by the Tribunal under section 5 or any other day to which the inquiry may be adjourned, the Tribunal shall proceed to enquire regarding—

(*i*) the amount of compensation to be awarded for the land ; and

(*ii*) the respective interests of the persons claiming compensation.

(*2*) The Tribunal shall then make an award stating the amount of compensation which in its opinion should be awarded for the land. Such award shall be in writing and where there are several persons interested in the land, the award shall also state the amount of compensation to be awarded to each.

Procedure before Tribunal.

8. Save as otherwise provided by or under this Act, the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to any enquiry before the Tribunal under this Act. V of 1908

Amount of compensation.

9. (*1*) Subject to the provisions of sub-sections (*3*), (*4*) and (*5*), the amount of compensation to be awarded for the land shall, after making deductions in respect of matters specified in sub-section (*2*), be—

(*a*) the amount paid to the Provincial Government as occupancy price for the land,

(*b*) the amount of expenditure incurred in making improvements on the land after its disposal by the Provincial Government until the date of the declaration under section 4,

(*c*) the amount of land revenue paid in respect of the land after its disposal by the Provincial Government until the date of the award, and

(*d*) interest at the rate of 4 per cent. per annum on the amounts mentioned in (*a*), (*b*) and (*c*) until the date of the award.

(*2*) In determining the amount of the compensation to be awarded, the Tribunal shall make deductions in respect of the following matters, namely :—

(*a*) the profits, if any, received by the holder for the time being from the land during the period mentioned in clause (*c*) of sub-section (*1*), and

(*b*) any damage resulting from any act, permanently injurious or destructive to the land, committed by the holder for the time being or any person acting on his behalf during the period mentioned in clause (*c*) of sub-section (*1*) :

Provided that the amount of compensation to be awarded under sub-section (*1*) shall not in any case be less than the total of the amount mentioned in clauses (*a*) and (*b*) of the said sub-section.

(*3*) If the holder for the time being, within 15 days from the date of the publication of the notice under section 5, intimates in writing to the Collector that he is willing to receive as compensation a sum equal to the amounts mentioned in clauses (*a*) and (*b*) of sub-section (*1*) together with the interest thereon at the rate and for the period mentioned in clause (*d*) of the said sub-section, the amount of compensation to be awarded for the land shall be the said sum without making any deductions therefrom in respect of any of the matters mentioned in sub-section (*2*).

(*4*) In cases where the holder for the time being is not the person to whom the land was disposed of by the Provincial Government but has purchased the land in good faith and for consideration before the first day of April 1938, the amount of compensation to be awarded shall be—

(*a*) the amount paid by such holder as price for the land, and

(*b*) the amount of expenditure incurred by such holder in making improvements on the land until the date of the declaration under section 4.

(*5*) In cases where the land is subject to any mortgage or charge which has been made or created in favour of a person who has advanced money in good faith, the amount of compensation to be awarded to such person shall be—

(*a*) the unpaid balance of the principal advanced, and

(*b*) if such person is not in possession of the land, the unpaid amount of interest payable on the principal at such rate as may have been specified in the instrument of mortgage or charge but not exceeding 7½ per cent. per annum.

Nothing in this sub-section shall bar the right of such person to enforce his rights against the mortgagor or the person who created the charge in respect of the balance due to him.

(*6*) In addition to the amount of compensation awarded under sub-section (*1*), (*3*), (*4*) or (*5*), as the case may be, the Tribunal shall in every case award a sum of 15 per cent. on the said amount.

Explanation.—For the purposes of this section "holder for the time being" means the person who is the owner of the land on the date of the declaration under section 4.

Payment amount awarded.

10. (*1*) After the award is made, the Collector shall tender payment of the amount awarded to the persons entitled thereto according to the award and shall pay it to them unless prevented by any of the contingencies mentioned in sub-section (*2*).

(*2*) If such persons do not consent to receive it or if any of them is under any legal disability and there is no person competent to receive it on his behalf, the amount awarded or part thereof, as the case may be, shall remain in deposit with the Collector for a period of three years from the date of the deposit or from the date when the person entitled to receive it ceases to be under a legal disability, as the case may be. After the expiry of the said period, such amount, if not paid, shall lapse and shall be credited to the revenues of the Province.

Arrangement instead of money compensation.

11. Notwithstanding anything contained in this Act, the Tribunal may, with the sanction of the Provincial Government, instead of awarding money compensation in respect of any land, make any arrangement with the person having interest in such land either by grant of another land in exchange or in such other way as may be equitable.

Award or arrangement to be final and conclusive.

12. The award made by the Tribunal under section 7 or any arrangement arrived at under section 11 shall be final and binding on all persons interested in the land.

Possession of land to be taken after declaration and land to vest absolutely in Provincial Government.

13. (*1*) After the expiration of fifteen days from the publication of the notice under section 5, the Provincial Government may, at any time, direct the Collector to take possession of the land mentioned in the declaration under section 4. On such direction being given the Collector shall take possession of the land.

(*2*) If at the time of taking possession of the land under sub-section (*1*), there are any standing crops on the land, the Collector shall offer to the persons interested such compensation as is in his opinion reasonable for the said crops. The decision of the Collector regarding the amount of such compensation shall subject to the provisions of sub-section (*3*) be final. In case such offer is not accepted, the Collector shall keep the amount of such compensation in deposit and the provisions of sub-section (*2*) of section 10 shall, so far as may be, apply to such deposit.

(*3*) Any person aggrieved by the decision of the Collector regarding the amount of compensation under sub-section (*2*) may within fifteen days from the date of the said decision appeal to the Tribunal. The decision of the Tribunal in such appeal shall be final.

(*4*) Such land shall, on its possession being taken by the Collector under sub-section (*1*), vest absolutely in the Provincial Government free from all encumbrances and the Provincial Government may restore it to the original holder thereof on such terms and conditions as it thinks fit.

Rules.

14. The Provincial Government may make rules for the purpose of carrying out the objects of this Act.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Insertion of new section 22A in Act XVI of 1908.
3. Amendment of section 51 of Act XVI of 1908.
4. Amendment of section 69 of Act XVI of 1908.
5. Substitution of new section 70B for section 70B in Act XVI of 1908.
6. Amendment of section 70D of Act XVI of 1908.
7. Insertion of new section 70E in Act XVI of 1908.
8. Validity of copies made prior to enactment of this Act.

BOMBAY ACT No. XXIV OF 1938.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1938.]

[*8th February 1939.*]

An Act to amend the Indian Registration Act, 1908,[2] in its application to the Province of Bombay.

XVI of 1908. WHEREAS it is expedient to amend the Indian Registration Act, 1908, in its application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1938. Short title.

XV. of 1908. 2. After section 22 of the Indian Registration Act, 1908, hereinafter called the said Act, the following section shall be inserted, namely:— Insertion of new section 22A in Act XVI of 1908.

"22A. (*1*) The Provincial Government may, by notification in the Official Gazette, declare that the registration of any document or class of documents is opposed to public policy. Documents registration of which is opposed to public policy.

(*2*) Notwithstanding anything contained in this Act, the registering officer shall refuse to register any document to which a notification issued under sub-section (*1*) is applicable."

3. To section 51 of the said Act, the following new sub-section shall be added, namely:— Amendment of section 51 of Act XVI of 1908.

"(*5*) If, in the opinion of the Registrar, any of the books mentioned in sub-section (*1*) is in danger of being destroyed or becoming illegible wholly or partially, the Registrar may by a written order direct such book or such portion thereof as he thinks fit to be recopied and authenticated in such manner as may be prescribed under section 69, and the copy prepared and authenticated under such direction shall for the purposes of this Act be deemed to have taken the place of and to be the original book or portion, and all references in this Act to the original book or portion shall be deemed to be references to the book or portion so recopied and authenticated."

4. In sub-section (*1*) of section 69 of the said Act,— Amendment of section 69 of Act XVI of 1908.

(*i*) to clause (*g*) the following shall be added, namely:—

"and the manner of recopying such books or portions thereof";

(*ii*) in clause (*gg*)—

(*a*) for the word "and" after the word "negatives" a comma shall be substituted; and

(*b*) the following shall be added at the end, namely:—

"and the procedure generally in the Government Photo Registry".

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 357 and 558; For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, pp. 3715-3718; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 5, pp. 250-252.

[2] *See* Unrepealed Central Acts, Vol. V, p. 433.

Substitution of new section 70B for section 70B in Act XVI of 1908.

5. For section 70B of the said Act the following shall be substituted, namely :—

Definitions.

"70B. In this Part—

(*1*) 'Government Photo Registry' means the office where documents are photographed under the provisions of this Part.

(*2*) 'Manager, Government Photo Registry' means the person in charge of the Government Photo Registry.

(*3*) 'Photo Registrar' means any person appointed by the Provincial Government to perform the duties of Photo Registrar under this Part."

Amendment of section 70D of Act XVI of 1908.

6. In section 70D of the said Act—

(*1*) In sub-section (*1*)—

(*i*) in clause (*b*)—

(*a*) for the word "Photo Registrar" wherever it occurs the words "Manager, Government Photo Registry" shall be substituted;

(*b*) the word "exactly" shall be omitted; and

(*ii*) after the proviso to clause (*c*) the following further proviso shall be inserted, namely :—

"Provided further that in case of documents containing plans or maps, the negatives of such plans and maps may be prepared on paper instead of on films and where the negatives are so prepared, the Photo Registrar shall fix his signature and seal separately to each such negative and print of such plan or map in token of the exact correspondence of the copy to the original map or plan contained in the document as admitted for registration.";

and

(*iii*) to clause (*d*) the following proviso shall be added, namely :—

"Provided that prints of plans or maps contained in documents may either be bound with the prints of such documents or filed separately in such manner as the Inspector General may direct.";

and

(*2*) After clause (*a*) of sub-section (*3*) the following shall be inserted, namely :—

"(*aa*) sub-section (*2*) of section 20 shall be omitted;"

7. After section 70D of the said Act, the following new section shall be inserted namely :— Insertion of new section 70E in Act XVI of 1908.

"70E. (*1*) Nothing in this Part shall apply to any document which is prepared on a printed or lithographed form or which in the opinion of the registering officer is not in a fit condition to be photographed. Savings.

(*2*) Nothwithstanding anything contained in this Part, in the case of any document containing a map, plan, or trademark label, if the party presenting the document so desires, the registering officer may accept true copies of such map, plan or trademark label and where such true copies are accepted, the map, plan or trademark label shall not be photographed and such copies thereof shall be filed in the appropriate book."

8. Notwithstanding anything contained in the said Act, copies of any of the books mentioned in sub-section (*1*) of section 51 of the said Act or any portion of such book, prepared before the enactment of this Act and authenticated in pursuance of the order of the Registrar or Inspector General shall for the purposes of the said Act be deemed to have taken the place of and to be the original book or portion ; and all references in the said Act to the original book or portion shall be deemed to be references to the book or portion so prepared and authenticated. Validity of copies made prior to enactment of this Act.

THE BOMBAY MEDICAL PRACTITIONERS' ACT, 1938.

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BOMBAY ACT No. XXVI OF 1938.[1]

[THE BOMBAY MEDICAL PRACTITIONERS' ACT, 1938.]

[*1st March 1939.*]

Amended by Bom. 33 of 1949.

An Act to regulate the qualifications and to provide for the registration of practitioners of Indian systems of medicine with a view to encourage the study and spread of such systems and to amend the law relating to medical practitioners generally in the Province of Bombay.

WHEREAS it is expedient to regulate the qualifications and to provide for the registration of practitioners of the Indian systems of medicine with a view to encourage the study and spread of such systems and to amend the law relating to medical practitioners generally; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act shall be called the Bombay Medical Practitioners' Act, 1938.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) Parts I and II of this Act shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint. Part III shall come into force in all municipal, cantonment and notified areas in the province on the expiry of two years and in all other areas on the expiry of five years from the date on which Parts I and II come into force in the respective areas.

PART II.

INDIAN SYSTEMS OF MEDICINE.

Definitions.

2. In this Part of the Act, unless there is anything inconsistent in the subject or context,—

(*1*) "Board" means the Board of Indian systems of medicine, Bombay, established and constituted under section 3.

[2][(*1A*) "By-law" means a by-law made under section 28-A.

(*1-B*) "Faculty" means the Faculty of Indian systems of medicine, Bombay, established and constituted under section 3-A.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp.273-277; for Report of the Select Committee, *see Bombay Government Gazette*, 1938, Part V, pp. 512-523; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 3, Part II, pp. 1455-1500, 1523-1552, 1577-1582, Vol. 4, *ibid*, pp. 32-36, 1450, 3843-3899 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 192-195 Vol. 5, *ibid*, pp. 252-273 and 275-324 and 344.

[2] These clauses were inserted by Bom. 33 of 1949, s. 2.

(*2*) "Indian systems of medicine" means the Ayurvedic (including the Siddha) and the Unani Tibbi systems of medicine, whether supplemented or not by such modern advances as the [1][Faculty] may from time to time have determined.

(*3*) "Inspector" means an Inspector appointed by the [1][Faculty] under section 22.

[2][(*3A*) "List" means a list of practitioners prepared and kept under section 18.]

(*4*) "Part" means a Part of this Act.

(*5*) "Practitioner" means practitioner of the Indian system of medicine.

(*6*) "President" means the President of the Board.

(*7*) "Qualifying Examination" means [3][an examination specified in the Schedule].

[4][(*7A*) 'Recognised Institution" means an institution recognised under section 21-A.

(*7B*) "Refugee" means a person who has been registered under section 4 of the Bombay Refugees Act, 1948.] Bom. XXII of 1948.

(*8*) "Register" means the Register of practitioners maintained under section 15.

(*9*) "Registered practitioner" means a practitioner whose name is for the time being entered in the Register.

(*10*) "Registrar" means the Registrar appointed under section 14.

[4][(*10A*) "Registration Tribunal" means a tribunal appointed under section 31A.]

(*11*) "Regulations" means regulations made under section 30.

(*12*) "Rules" means rules made under section 29.

[4][(*13*) "Schedule" means the Schedule appended to this Act.]

Establishment, constitution and incorporation of the Board.

3. (*1*) Subject to the provisions of section 31, the Provincial Government shall by notification in the *Official Gazette* establish a Board to be called "the Board of Indian Systems of Medicine, Bombay." [5] * * Such Board shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued.

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[1] This word was substituted for the word "Board" by Bom. 33 of 1949, s. 2.

[2] This clause was inserted, *ibid.*

[3] These words were substituted for the words "the examination held for the purpose of granting a diploma conferring the right of registration under this Act", *ibid.*

[4] These clauses were inserted, *ibid.*

[5] The words "for the purpose of carrying out the provisions of this Part" were deleted, *ibid.*

(*2*) The Board shall consist of [1][fourteen] members, who shall be appointed in the following manner, namely :—

[2][(*i*) A President nominated by the Provincial Government;

(*ii*) Five members nominated by the Provincial Government, out of whom—

(*a*) one shall be a person residing in the Province or in areas over which the Provincial Government has jurisdiction under the Extra Provincial Jurisdiction Act, 1947, and practising in the Ayurvedic (including Siddha) system of medicine, and

XLVI of 1947.

(*b*) one shall be a person residing in the Province or areas referred to in clause (*a*) and practising in the Unani Tibbi system of medicine;

(*iii*) Six members elected by the registered practitioners from amongst themselves; and

(*iv*) Two members elected by the Faculty who shall be persons other than those appointed under any of the preceding clauses.]

(*3*) The seats of members elected under clause (*iii*) of sub-section (*2*) shall be so divided amongst the Ayurvedic and Unani registered practitioners as to be in the proportion of their numbers on the Register on the date of the election:

Provided that in determining the said proportion a fraction of one-half and less shall be neglected and a fraction of more than one-half shall be counted as one:

[3][* * * * * * *]

[3][* * * * * * *]

[3][* * * * * * *]

[4][3A. There shall be a Faculty of Indian Systems of Medicine, Bombay. The Faculty shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued. The Faculty shall consist of fourteen members appointed in the following manner, namely :— Faculty.

(*1*) The President shall be the ex-officio chairman;

(*2*) Six members nominated by the Provincial Government out of whom at least two shall be registered practitioners;

(*3*) Two members elected from amongst themselves by the principals or heads of recognised institutions:

Provided that at least one of them shall be a person who holds any of the qualifications specified in the Schedule.

(*4*) Three members elected from amongst themselves by recognised teachers (other than the principals or heads of institutions) in recognised institutions:

Provided that such teachers have been on the roll of a recognised institution for a period of one year immediately preceding the day appointed for election by the Provincial Government in this behalf:

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[1] This word was substituted for the word "thirteen" by Bom. 33 of 1949, s. 3.
[2] These clauses were substituted for the original, *ibid.*
[3] The second proviso to sub-section (*3*) and sub-section (*4*) and the Explanation were deleted, *ibid.*
[4] This section was inserted, *ibid.*, s. 4.

Provided also that out of the three members so elected by such teachers, at least one shall be a registered practitioner, and another who shall hold any of the qualifications specified in the Schedule.

(*5*) Two members elected by the Board who shall be persons other than those appointed under any of the preceding clauses, but one of whom shall be a registered practitioner in the Unani Tibbi system :

Provided that—

(*a*) if there are one or more recognised institutions giving instruction in the full course of Unani Tibbi system, the number of members to be elected under clause (*3*) shall be three, one of whom shall be the principal or head of such institution, the total number of the members of the Faculty being in that case increased to fifteen ;

(*b*) the Faculty shall always contain at least two members who are entitled to represent the Unani Tibbi system under this section.

Explanation.—If any question arises whether a particular person is entitled to represent the Unani Tibbi system, the decision of the Provincial Government shall be final.]

Nomination of members in default of election.

4. If any of the members is not elected under [1][section 3 or 3A], the Provincial Government may [2]* * * nominate such registered practitioners as they deem fit and the practitioners so nominated shall for the purposes of this Part be deemed to have been duly elected under [1][section 3 or 3A, as the case may be].

Election of members.

5. The election of practitioners entitled to be the members of the Board [3][and the Faculty] shall be held at such time and place and in such manner as may be prescribed by rules :

[4][Provided that in the case of the members of the Faculty to be elected by the Board and of the members of the Board to be elected by the Faculty the other members of the Board or the Faculty, as the case may be, shall, as soon as may be, after their election or nomination, meet to hold the election.]

Term of office.

6. (*1*) Save as otherwise provided by this Part—

[5][(*a*)] the term of office of elected and nominated members [6][of the Board] shall be for a period of five years commencing from the date on which the first meeting of the Board is held after the members are elected under sub-section (*2*) of section 3 ;

[7][(*b*) the term of office of elected and nominated members of the Faculty shall expire on the date on which the term of the Board expires under this section.]

(*2*) An outgoing member shall continue in office until the election or nomination of his successor, as the case may be.

(*3*) The outgoing member shall be eligible for renomination or re-election.

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[1] These words, figures and letter were substituted for "clause (*iii*) of sub-section (*2*) of section 3" by Bom. 33 of 1949, s. 5.

[2] The words "notwithstanding anything contained in sub-section (*2*) of the said section" were deleted, *ibid.*

[3] These words were substituted for "under clause (*iii*) of sub-section (*2*) of section 3," *ibid.*, s. 6.

[4] This proviso was added, *ibid.*, s. 6.

[5] The brackets and letter "(*a*)" were inserted, *ibid.*, s. 7.

[6] These words were inserted, *ibid.*

[7] This clause was substituted for the proviso, *ibid.*

Vacancies.

7. If a vacancy occurs in the office of a member of the Board [1][or the Faculty] through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the manner prescribed by rules. Any person nominated or elected to fill the vacancy shall, notwithstanding anything contained in section 6, hold office only so long as the member in whose place he is nominated or elected, would have held office if the vacancy had not occurred.

Resignation of a member.

8. Any member [2][of the Board or the Faculty] may at any time resign his office by letter addressed to the President [2][or the Chairman, as the case may be]. Such resignation shall take effect from the date on which it is received by the President [2][or the Chairman, as the case may be.]

Disabilities for continuing as member.

9. If any member, during the period for which he has been nominated or elected,—

(*a*) absents himself without such reasons as may in the opinion of the Board [3][or the Faculty] be sufficient, from three consecutive ordinary meetings of the Board [3][or the Faculty], or

(*b*) becomes subject to any of the disqualifications mentioned in section 10, the Board [3][or the Faculty, as the case may be,] shall declare his office to be vacant.

Disqualifications.

10. No person shall stand as a candidate for election as a member of the Board [4][or the Faculty] or shall be a member of the Board [4][or the Faculty],—

(*a*) who is an undischarged insolvent,

(*b*) who has been adjudicated by a competent Court to be of unsound mind, or

(*c*) whose name has been removed from the Register.

Validity of proceedings.

11. No disqualification of or defect in the election or nomination of any person acting as a member of the Board [4][or the Faculty] or as the President, [5][or Chairman] or presiding authority of a meeting shall be deemed to vitiate any act or proceeding of the Board [4][or the Faculty, as the case may be], in which such person has taken part.

Time and place of meeting of Board [6][and Faculty.]

12. [7][The Board or the Faculty shall meet] at such time and place and [7][every meeting of the Board and the Faculty] shall be summoned in such manner as may be prescribed by regulations [8][or by-laws, as the case may be]:

Provided that until [7][such regulations or by-laws] are made, it shall be lawful for the President [9][or the Chairman] to summon a meeting of [7][the Board or the Faculty, as the case may be,] at such time and place as he may deem expedient by letter addressed to each member.

Procedure at meetings of Board [10][and Faculty].

13. (*1*) The President shall preside at every meeting of the Board. In the absence of the President the members present shall elect one of them to preside.

[11][(*1A*) The Chairman shall preside at every meeting of the Faculty. In the absence of the Chairman the members present shall elect one of them to preside.

(*2*) All questions at a meeting of the Board [12][or the Faculty] shall be decided by the votes of the majority of the members present at the meeting. Eight members shall form a quorum. No quorum shall be necessary for a meeting adjourned for want of a quorum.

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[1] These words were inserted by Bom. 33 of 1949, s. 8.
[2] These words were inserted, *ibid.*, s. 9.
[3] These words were inserted, *ibid.*, s. 10.
[4] These words were inserted, *ibid.*, ss. 11 and 12.
[5] These words were inserted, *ibid.*, s. 12.
[6] These words were added, *ibid.*, s. 13.
[7] These words were substituted for the original, *ibid.*
[8] These words were added, *ibid.*
[9] These words were inserted, *ibid.*
[10] These words were added, *ibid.*, s. 14.
[11] This sub-section was inserted, *ibid.*
[12] These words were inserted, *ibid.*

(3) At every meeting of the Board [1][or the Faculty] [2][the person presiding] for the time being shall, in addition to his vote as a member of the Board [1][or the Faculty], have a second or casting vote in case of an equality of votes.

Powers and functions of Board.

[3][**13A.** Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers and functions of the Board shall be,—

(*a*) to appoint the Registrar and other officers and servants and to fix their salaries and allowances;

(*b*) to provide for the registration of practitioners and entry of their names in the list under this Act;

(*c*) to reprimand a registered practitioner or a practitioner whose name is entered in the list or to suspend or remove him from the register or list and to take such other disciplinary action against him as may, in the opinion of the Board, be necessary or expedient;

(*d*) to hear and decide appeals from the decisions of the Registrar.]

Powers and functions of Faculty.

[3][**13B.** Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers and functions of the Faculty shall be—

(*a*) to prescribe the course of training and the standard and subjects of qualifying examinations including the course of training and examinations prior to such qualifying examinations;

(*b*) to hold qualifying examinations and other examinations, to appoint examiners, to fix their fees and allowances and to declare the results of examinations;

(*c*) to grant degrees, honoraria, diplomas, licences and marks of honour;

(*d*) to award stipends, scholarships, medals, prizes and other rewards;

(*e*) to recommend recognition to institutions for the purpose of giving instruction in the Indian Systems of Medicine or to recommend their cancellation;

(*f*) to prepare, publish and prescribe text books and to publish statements of prescribed courses of study;

(*g*) to provide for the maintenance of an adequate standard of proficiency for the practice of the Indian Systems of Medicine;

(*h*) to found and maintain a library;

(*i*) to recommend schemes for post-graduate training and research in the Indian Systems of Medicine;

(*j*) to provide for the inspection of institutions and to require institutions giving instruction in the Indian Systems of Medicine to furnish such information as may be necessary;

(*k*) to appoint Inspectors and such other Officers and servants as may be necessary;

(*l*) to appoint any committees or boards of studies as may be necessary and to lay down their constitution, duties and functions. Such committees or boards may contain members who are not members of the Faculty.]

Other powers and functions of Board and Faculty.

[3][**13C.** The Board and the Faculty shall also exercise such other powers and perform such other functions as may be prescribed by or under this Act, or as the Provincial Government may direct for carrying out the purposes of this Act.]

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[1] These words were inserted by Bom. 33 of 1949, s. 14.
[2] These words were substituted for the words "the president", *ibid.*
[3] Sections 13A, 13B and 13C were inserted, *ibid.*, s. 15.

14. (*1*) The Board shall, with the previous approval of Government, appoint a Registrar. The Registrar shall receive such salary and allowances as may be prescribed by rules. The Board may from time to time grant him leave and may appoint a person to act in his place. Any person duly appointed to act as Registrar shall be deemed to be the Registrar for all the purposes of this Act : Registrar.

[1][Provided that where the period of leave to be granted to the Registrar does not exceed one month, the President may grant such leave.]

(*2*) Any order of the Board appointing, punishing or removing a Registrar from office shall not be passed without the previous approval of the Provincial Government.

(*3*) The Board may appoint such other officers and servants as may be necessary for the purposes of this Act :

Provided that the number and designations of such officers and servants, their salaries and allowances shall be subject to the previous approval of the Provincial Government.

(*4*) The Registrar and any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

15. (*1*) Subject to the provisions of this Part and subject to any general or special orders of the Board, it shall be the duty of the Registrar to keep the Register [2][and the list. It shall also be the duty of the Registrar to attend the meetings of the Board and the Faculty and to perform generally the duties of the Secretary to both the said bodies.] Duties of Registrar.

(*2*) The Register shall be in such form as may be prescribed by rules. The Register shall be divided into two parts :—

(*i*) that containing the names of practitioners qualified to practise the Ayurvedic system ; and

(*ii*) that containing the names of practitioners qualified to practise the Unani system.

The Register shall contain the names, residence and qualifications of every practitioner registered together with the date on which such qualification was acquired.

(*3*) The Registrar shall keep the Register correct as far as possible and may from time to time enter therein any material alteration in the address or qualifications of the practitioners. The names of registered practitioners who die or whose names are directed to be removed from the Register under sub-section (*3*) of section 16 shall be removed from the Register.

(*4*) The Provincial Government may direct that any alteration in the entries as respects additional qualification shall not be made unless on payment of such fee as may be prescribed by rules.

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[1] This proviso was added by Bom. 33 of 1949, s. 16.

[2] These words were added, *ibid.*, s. 17.

(5) For the purpose of this section the Registrar [1][may at any time] write by registered post to any registered practitioner at the address which is entered in the Register to inquire whether he has ceased to practise or has changed his residence and if no answer is received to the said letter within six months, the Registrar may remove the name of the said practitioner from the Register. [2][Such inquiry shall be made at least once one year before the term of office of the members of the Board is about to expire :]

Provided that the Board may, if it is satisfied that the said practitioner has not ceased to practise, on the application of the said practitioner, direct that his name be re-entered in the Register.

Registration.

16. (1) Every person who passes a qualifying examination shall on payment of a fee of Rs. 10 be entitled to have his name entered in the Register.

[3]* * * * * *

(3) The Board may direct that the name of any practitioner who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, 1898, which discloses such defect of moral character as is, in the opinion of the Board, sufficient to make him unfit to practise his profession or who, after due inquiry, has been found guilty of conduct, which is in the opinion of the Board infamous in any professional respect, shall be removed from the Register. The Board may, on sufficient cause being shown, also direct that the name of the practitioner so removed shall be re-entered in the Register. V of 1898.

Appeal to Board from the decision of Registrar.

17. (1) Any person aggrieved by the decision of the Registrar regarding the registration of any person or any entry in the Register may appeal to the Board.

(2) Such appeal shall be filed and shall be heard and decided by the Board in the manner prescribed by the rules.

(3) The Board may on its own motion or on the application of any person, after due and proper enquiries and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the Register, if, in the opinion of the Board, such entry was fraudulently or incorrectly made.

Maintenance of list of persons in practice on 10th March 1938.

18. (a) The Registrar shall also prepare and keep a list called "a list of persons in practice on the 10th March 1938."

(b) Every person not being a person qualified for registration under this Act or under the Bombay Medical Act, 1912, who, within a period of two years from the date from which this Part comes into force, proves to the satisfaction of the Registrar that he has been in regular practice in this province, on the 10th March 1938, of any system of medicine or surgery or midwifery or any of their branches shall be entitled to have his name entered in the aforesaid list on payment of Rs. 10 : Bom. V of 1912.

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[1] These words were inserted by Bom. 33 of 1949, s. 17.

[2] This portion was added, *ibid.*

[3] Sub-section (2) was deleted, *ibid.*, s. 18.

Provided, however, that any person whose name has been removed from the Register kept under the Bombay Medical Act, 1912, or the Register kept under an Act of a Provincial Legislature in British India or from the register of any country where he was formerly practising, for infamous conduct in a professional respect, shall not be entitled to have his name entered in the list.

Bom. VI of 1912.

(*c*) The provisions of sub-sections (*3*) and (*5*) of section 15, sub-section (*3*) of section 16, and section 17 shall *mutatis mutandis* apply to this list.

[1][**18A.** (*1*) Notwithstanding anything contained in section 16 or 18, the Board may direct that a renewal fee of such amount as may be approved by the Provincial Government shall be paid by each practitioner for the continuance of his name on the Register or list, as the case may be.

Renewal fee.

(*2*) If the renewal fee is not paid, before the due date, the Registrar shall remove the name of the defaulter from the Register or list, as the case may be:

Provided that the name so removed may be re-entered in the Register or list on payment of the renewal fee in such manner and subject to such conditions as may be prescribed.]

19. Notwithstanding anything in any law for the time being in force—

Qualified practitioners' certificates.

(*1*) the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognised by law as a medical practitioner or member of medical profession shall in all Acts of Legislature in the Province of Bombay and in all Acts of the Central Legislature (in their application to the Province of Bombay) in so far as such Acts relate to any of the matters specified in List II or List III in the Seventh Schedule to the Government of India Act, 1935, include a registered practitioner;

26 Geo. V, Ch. 2.

(*2*) A certificate required by any Act from any medical practitioner or medical officer shall be valid, if such certificate has been signed by a registered practitioner;

(*3*) a registered practitioner shall be eligible to hold any appointment as a Physician, Surgeon or other medical officer in any Ayurvedic or Unani dispensary, hospital, infirmary or lying-in-hospital supported by or receiving a grant from the Provincial Government and treating patients according to the Indian systems of medicine or in any public establishment, body or institution dealing with such systems of medicine.

20. Every Registrar of Deaths on receiving notice of the death of a registered practitioner shall forthwith transmit by post to the Registrar a certificate under his own hand of such death with the particulars of time and place of death and may charge the cost of such certificates and transmission as an expense of his office.

Notice of death.

21. [2][Save as otherwise provided by the provisions of this Act] [3][the name of any person] shall not be entered in the Register as a registered practitioner, unless he has passed a qualifying examination.

Examination before registration.

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[1] This section was inserted by Bom. 33 of 1949, s. 19.

[2] These words were substituted for "Notwithstanding anything contained in section 16 on and after the expiry of two years from the date from which this Act comes into force," *ibid.*, s. 20.

[3] These words were substituted for the words "a person", *ibid.*

Recognition of Institutions.

[1][21A. (*1*) Any institution applying for recognition under this Act shall send an application to the Registrar and shall give full information in respect of the following matters :—

(*a*) the constitution and personnel of the managing body ;

(*b*) subjects and courses in which it gives or proposes to give instruction ;

(*c*) accommodation, equipment and the number of students for whom provision has been or is proposed to be made ;

(*d*) the strength of the staff, their salaries, qualifications and the research work made by them ;

(*e*) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for the continued maintenance and efficient working of the institution.

(*2*) The Registrar shall place the application before the Faculty and the Faculty may direct the Registrar to call for any further information which it may deem necessary. The Faculty may also direct a local inquiry to be made by a competent person or persons authorized by it in this behalf.

(*3*) After recording the report of such local inquiry and after making such further inquiry as may be necessary, the Faculty shall forward the application together with its report to the Provincial Government stating its opinion whether the recognition asked for should or should not be granted. The Provincial Government may thereupon grant or refuse the recognition or may grant it subject to such conditions as it deems fit. The decision of the Provincial Government shall be final.]

Qualifying examination.

22. (*1*) The [2][Faculty shall by by-laws] prescribe the course of training and qualifying examinations including the course of training and examinations prior to qualifying examinations. [2][Such by-laws] shall provide that instruction and examinations shall, as far as possible, be given or held in any of the Indian languages spoken in the Province.

(*2*) A qualifying examination shall be an examination in the Indian systems of medicine including the subjects of medicine, surgery and midwifery held [3][by the Faculty] for the purpose of granting [3][a degree or] a diploma conferring the right of registration under this Part [4][and specified in the Schedule ; and such other examination as may on the recommendation of the Faculty be included in the Schedule by the Provincial Government by a notification in the *Official Gazette* from and after the date specified in the notification.]

(*3*) It shall be the duty of [5][the Faculty] to secure the maintenance of an adequate standard of proficiency for the practice of the Indian systems of medicine including the subjects of medicine, surgery and midwifery. For the purpose of securing such standard, [5][the Faculty] shall have authority to call on the governing

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[1] This section was inserted by Bom. 33 of 1949, s. 21.

[2] These words were substituted for the original., *ibid*, s. 22.

[3] These words were inserted, *ibid*.

[4] This portion was substituted for the original, *ibid*.

[5] These words were substituted for the words "the Board", *ibid*.

body or authorities [1][of any body or institution] giving instruction in the Indian systems of medicine and [2][on any body or institution recognised to hold a qualifying examination under sub-section (2) or holding a qualifying examination specified in the Schedule,]—

(*a*) to furnish such particulars as [3][the Faculty] shall require of any course of study prescribed [4][by by-laws or examination held by such body or institution] with reference to the grant of any qualification; and

(*b*) to permit Inspectors [5][or any member or visitor] appointed by [3][the Faculty] from among the Registered practitioners in this behalf to attend and be present at all or any of the qualifying or prior examinations.

(*4*) The [6][Inspectors, members or visitors] shall not interfere with the conduct of any examination, but it shall be their duty to report to [3][the Faculty] their opinion as to the sufficiency or insufficiency of every examination which they attend and any other matters in relation to such examinations on which [3][the Faculty] may require them to report.

(*5*) Every qualifying examination and every prior examination leading up to it held by the bodies or institutions authorized under this section shall be inspected by [7][the Inspectors, members or visitors] at least once in [8][five] years and more frequently if [3][the Faculty] directs.

(*6*) [3][The Faculty] shall forward a copy of every such report to the body which held the examination in respect of which the said report was made and shall also forward a copy of such report, together with any observations thereon made by the said body, to the Provincial Government.

(*7*) An Inspector, [9][a member or a visitor] shall receive such remuneration to be paid as part of the expenses of [3][the Faculty], as [3][the Faculty], with the previous sanction of the Provincial Government, may determine.

Power of Faculty to include other examinations in Schedule.

[10][**22A.** If it shall appear to the Provincial Government on the report of the Faculty or otherwise that the course of study and examinations prescribed by any body or institution conferring a qualification for an examination not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the Provincial Government from time to time by notification in the *Official Gazette* to direct that the possession of such qualification shall, subject to the provisions of this Act, entitle a person to be so registered under this Part and to include in the Schedule any examination relating to such qualification as a qualifying examination from and after the date specified in the notification.]

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[1] These words were substituted for the words "of any institution" by Bom. 33 of 1949, s. 22.

[2] This portion was substituted for the original, *ibid.*

[3] These words were substituted for the words "the Board", *ibid.*

[4] These words were substituted for the words "by regulations or examination held by such body or authority or in such school or college", *ibid.*

[5] These words were inserted, *ibid.*

[6] These words were substituted for the words "Inspectors", *ibid.*

[7] These words were substituted for the words "the Inspectors", *ibid.*

[8] This word was substituted for the word "three", *ibid.*

[9] These words were inserted, *ibid.*

[10] This section was inserted, *ibid.*, s. 23.

Removal of institutions authorized to hold qualifying examinations.

23. If it shall appear to the Provincial Government on the report of [1][the Faculty or otherwise] that the course of study and examinations prescribed by any [2][of the bodies or institutions recognised to hold qualifying examinations under sub-section (*2*) of section 22 or holding examinations specified in the Schedule] are not such as to secure the maintenance of an adequate standard of proficiency for the practice of the Indian systems of medicine including the subject of medicine, surgery or midwifery, as the case may be, it shall be lawful for the Provincial Government from time to time [3][to direct that the recognition of any body or institution to hold qualifying examinations under section 22 shall be withdrawn and the said body or institution] shall not be authorized to hold a qualifying examination :

Provided that before any direction [4][for the withdrawal of the recognition of any body or institution] is made under this section, [5][the Faculty shall require the body or institution] to take steps within such time as it thinks fit to provide that the course of study and examinations prescribed [6][by the body or institution are] of an adequate standard.

Exemption from serving on inquests.

24. Notwithstanding anything in any other law for the time being in force, every registered practitioner shall be exempt, if he so desires, from serving on any inquest or as a juror or assessor under the Code of Criminal Procedure, 1898. V of 1898.

Fees payable to members of Board [and the Faculty].

25. There shall be paid to the members of the Board [7][and the Faculty] such fees and allowances for attendance and such reasonable travelling allowances as shall from time to time be prescribed by rules. V of 1898.

Fees received by Board [7][and the Faculty].

26. All moneys received by the Board [7][and the Faculty] as fees under this Part shall be applied for the purposes of this Part in accordance with the rules.

Annual list of practitioners.

27. (*1*) The Registrar shall [8][at least once in every five years] on or before a date to be fixed by the Board, cause to be printed and published a correct list of the names and qualifications of all practitioners for the time being entered in the Register and the dates when such qualifications were acquired.

(*2*) In any proceeding it shall be presumed that every person entered in such list is a registered practitioner and that any person not so entered is not a registered practitioner.

28. [*False assumption of degree or diploma to be an offence.*] *Repealed by Bom. 33 of 1949, s. 28.*

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[1] These words were substituted for the words "the Board" by Bom. 33 of 1949, s. 24.

[2] This portion was substituted for the words "of the institutions specified in the notification under section 22", *ibid.*

[3] This portion was substituted for the original, *ibid.*

[4] These words were substituted for the words "for the removal of an institution from the said notification", *ibid.*

[5] These words were substituted for the words "the Board shall require the institution", *ibid.*

[6] These words were substituted for the words "by the institution are", *ibid.*

[7] These words were inserted, *ibid.*, ss. 25 and 26.

[8] These words were substituted for the words "in every year", *ibid.*, s. 27.

[1][28A. (*1*) The Faculty may, with the previous sanction of the Provincial Government, make by-laws not inconsistent with this Part or the rules for the following matters, namely :— By-laws.

(*a*) the course of study for training and qualifying examinations ;

(*b*) the language in which the examinations shall be conducted and instruction shall be given ;

(*c*) the admission of students to the recognised institutions ;

(*d*) the conditions under which students shall be admitted to degrees, diplomas, licence or certificate's course and to the qualifying and prior examinations ;

(*e*) the conditions of appointment of examiners and the conduct of examinations ;

(*f*) the conditions for the recognition of teachers in recognised institutions ;

(*g*) the requirements for the recognition of teaching institutions ;

(*h*) such other matters as may be necessary for the exercise of powers and performance of functions to be exercised or performed by the Faculty under this Act.

(*2*) All by-laws shall be published in the *Official Gazette*.

(*3*) The Provincial Government may by notification in the *Official Gazette* cancel any by-law :

Provided that in submitting by-laws for the sanction the Provincial Government under this section the Faculty shall send a copy of its proceedings relating to the passing of such by-laws and shall state the number of its members representing either system of Indian medicine who have voted for or against such by-laws or not voted in respect of such by-laws :

Provided further that in sanctioning the said by-laws due consideration shall be given to the opinion of the members of either system of Indian medicine as expressed in the said proceedings.]

29. (*1*) The Provincial Government may, after previous publication, make rules to carry out all or any of the purposes of this Part. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules for any of the following matters :—

(*a*) the time at which and the place and manner in which election shall be held under section 5 ;

(*b*) the manner in which vacancies shall be filled under section 7 ;

(*c*) the manner in which the meetings of the Board [2][and the Faculty] shall be convened and held ;

(*d*) the salary, allowances and other conditions of service of the Registrar under section 14 ;

(*e*) the form of the Register and the particulars to be entered therein under section 15 ;

(*f*) fees chargeable for the alteration of entries in the Register ;

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[1] This section was inserted, by Bom. 33 of 1949, s. 29.
[2] These words were inserted, *ibid.*, s. 30.

(*g*) the manner in which appeals against the decision of the Registrar shall be heard by the Board under section 17;

(*h*) the application of fees;

(*i*) fees and other allowances payable to members of the Board [1][and the Faculty] under section 25;

[2][(*ii*) the manner in which and the conditions subject to which the name of a practitioner can be entered in the Register or list on payment of renewal fee under section 18A;]

(*j*) the furtherance of any of the objects of [3][this Part];

[2][(*k*) the manner in which inquiry shall be made under sub-section (*2*) of section 31C].

Regulations.

30. (*1*) The Board may, with the previous sanction of the Provincial Government make regulations not inconsistent with this Part or the rules for any of the following matters, namely :—

(*a*) the time and place at which the Board shall hold its meetings under section 12;

(*b*) the salary, allowances and other conditions of service of officers and servants of the Board other than the Registrar, under section 14;

[4]* * * * * *

(*h*) all other matters which may be necessary for the purposes of carrying out the objects of this Part.

(*2*) All regulations shall be published in the *Official Gazette*.

(*3*) The Provincial Government may by notification in the *Official Gazette* cancel any regulation.

[5]* * * * * *

Control of Provincial Government.

31. If at any time it shall appear to the Provincial Government that the Board [6][or the Faculty] has failed to exercise or has exceeded or abused any of the powers conferred upon it by or under this Part or has failed to perform any of the duties conferred upon it by or under this Part, the Provincial Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Board [6][or the Faculty, as the case may be], and if the Board [6][or the Faculty] fails to remedy such default, excess or abuse, within such time as the Provincial Government may fix on this behalf, the Provincial Government may dissolve the Board [6][or the Faculty, as the case may be] and cause all or any of the powers and duties of the Board [6][or the Faculty, as the case may be], to be exercised and performed by such person and for such period not exceeding two years as it may think fit.

Registration Tribunal.

[7][**31A.** (*1*) For the purposes of facilitating refugees and persons residing in the areas included in the Province of Bombay under the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, and in the area jurisdiction over which has been transferred to the Government of Bombay under the Extra-Provincial Jurisdiction Act, 1947, and some other persons, to have their names in the Register or list under the provisions of this Act, the Provincial Government shall, by notification in the *Official Gazette*, constitute a Registration Tribunal. XLVII of 1947.

[1] These words were inserted by Bom. 33 of 1949, s. 30.
[2] This clause was inserted, *ibid.*
[3] These words were substituted for the words "the Board", *ibid.*
[4] Clauses (*c*) to (*g*) were deleted, *ibid.*, s. 31.
[5] The two provisos were deleted, *ibid.*, s. 31.
[6] These words were inserted, *ibid.*, s. 32.
[7] Sections 31A, 31B and 31C were inserted, *ibid.*, s. 33.

(*2*) The said Tribunal shall consist of three members, one of whom shall be elected by the Board from amongst its own members and two shall be elected by the Faculty from amongst its members.

(*3*) The members so elected shall select their own Chairman. If the members or the majority of them are unable to make the selection of the Chairman, the Provincial Government shall nominate one of them to act as the Chairman.

(*4*) The provisions of sections 12 and 13 shall *mutatis mutandis* apply to the time and place of the meeting of the Tribunal and the procedure to be followed at the meeting.]

Application for registration.

[1][**31B.** The Provincial Government shall, by notification in the *Official Gazette*, appoint a date on or before which application for registration or entry in the list shall be made to the Registration Tribunal. Such application shall be accompanied by a fee of Rs. 10.]

Power of Registration Tribunal to enter names in Register or list.

[1][**31C.** (*1*) The Registration Tribunal shall examine the applications received on or before the date appointed and after making such inquiry as it thinks fit shall, if the applicant is either—

(*a*) a refugee, or

(*b*) a person residing in the area which is included in the Province of Bombay under the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, or in the area the jurisdiction over which has been transferred under the Extra Provincial Jurisdiction Act, 1947,

XLVII of 1947.

direct the entry of the names to be entered on the Register or list in accordance with the following rules :—

(*i*) If the applicant holds a diploma of having passed any of the examinations specified in the Schedule, the name of such applicant shall be entered in the Register ;

(*ii*) If the applicant has been in regular practice as a practitioner for a period not less than five years preceding the date on which he makes the application, his name shall be entered in the list ;

(*iii*) If the applicant has been in regular practice as a practitioner for a period not less than two years preceding the date on which he makes the application, his name may be provisionally entered in the list, but shall be removed from the list, if within a period of five years from the aforesaid date he fails to pass the final qualifying examination.

(*2*) The Registration Tribunal may also after making such inquiry as may be prescribed by rules direct the name of any other person, whether residing in the Province or elsewhere, whose name has not been entered in the Register or list, but who was in regular practice on the 4th November 1941 of any system of medicine, surgery or midwifery or any of the branches to be entered in the Register or list, provided that such person proves to the satisfaction of the Registration Tribunal that for sufficient and adequate reasons his name could not be entered in the Register or list.

(*3*) The decision of the Registration Tribunal under sub-sections (*1*) and (*2*) shall be final and conclusive.]

[1] Sections 31A, 31B and 31C were inserted by Bom. 33 of 1949, s. 33.

PART II.

MEDICAL PRACTITIONERS GENERALLY.

Medical practitioners not registered under this Act or under Bom. VI of 1912 not to practise, etc.

32. No person other than (*i*) a practitioner registered under Part II of this Act or (*ii*) a medical practitioner registered under the Bombay Medical Act, 1912, or (*iii*) a person whose name is entered in the list mentioned in section 18 shall practise or hold himself out, whether directly or by implication, as practising for personal gain any system of medicine, surgery or midwifery: Bom. VI of 1912.

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that the provisions of this section shall not apply to any class of persons or in any specified area.

Medical practitioner not registered under this Act or under Bom. VI of 1912 not to sign birth or death certificate, etc.

33. Notwithstanding anything in any law for the time being in force, no person other than a practitioner registered under Part II of this Act or a medical practitioner registered under the Bombay Medical Act, 1912,— Bom. VI of 1912.

(*a*) shall sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner;

(*b*) shall sign or authenticate a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner; or

(*c*) shall be qualified to give evidence at any inquest or in any Court of law as an expert under section 45 of the Indian Evidence Act, 1872, on any matter relating to medicine, surgery or midwifery. I of 1872.

Penalty.

34. Any person who acts in contravention of the provisions of section 32 shall, on conviction, be punishable with fine which may extend to Rs. 100 for the first offence and to Rs. 500 for every subsequent offence after his conviction for such first offence.

Conferring, granting or issuing colourable imitations of degrees, diplomas or licences to be an offence.

35. (*1*) No person other than a body or institution authorized under section 22 of this Act or under the Indian Medical Degrees Act, 1916, or under the Bombay Medical Act, 1912, shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any degree, diploma or licence which is identical with or is a colourable imitation of any degree, diploma or licence granted by a body or institution authorized under this Act or under the Indian Medical Degrees Act, 1916, or under the Bombay Medical Act, 1912, as the case may be. VII of 1916. Bom. VI of 1912. VII of 1916. Bom. VI of 1912.

(*2*) Whoever contravenes the provisions of this section shall, on conviction, be punishable with fine which may extend to Rs. 1,000 and if the person so contravening is an association every member of such association who knowingly or wilfully authorizes or permits the contravention shall, on conviction, be punishable with fine which may extend to Rs. 1,000.

[1][35A. (*1*) No person shall add to his name any title, description, letters or abbreviations which imply that he holds a degree, diploma, licence or certificate as his qualification to practise any system of medicine unless— Prohibition against addition of any title, description, etc., to name of any person, unless authorized to do so.

(*a*) he actually holds such degree, diploma, licence or certificate; and

(*b*) such degree, diploma, licence or certificate—

(*i*) is recognised by any law for the time being in force in India or in any part thereof, or

(*ii*) has been conferred, granted or issued by a body or institution referred to in section 35, or

(*iii*) has been recognised by the Medical Council of India, or

(*iv*) in cases not falling under sub-clause (*i*), (*ii*) or (*iii*) has been conferred, granted or issued by an authority empowered or recognised as competent, by the Provincial Government to confer, grant or issue such degree, diploma, licence or certificate.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall be punished in the case of a first conviction with fine which may extend to two hundred and fifty rupees and in the case of subsequent conviction, with fine which may extend to five hundred rupees.]

36. Nothing in sections 32 and 34 shall apply to any person— Saving.

(*a*) who limits his practice to the art of dentistry, or

(*b*) who being a nurse, midwife or health visitor registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935, or a Dai attends on a case of labour, or Bom. VII. of 1935.

[2]* * * *

(*e*) who practises homœopathy [3][or any other therapeutical system (other than the system of the Western Medical Science or the Indian Systems of Medicine], provided that such person—

(*i*) has undergone a course of training in homoeopathy [3][or such other therapeutical system] for such period and in such institutions as may be prescribed by the Provincial Government and has passed an examination as may be prescribed by the Provincial Government; and

(*ii*) does not hold a degree, diploma or licence which is a colourable imitation of a degree, diploma or licence entitling any person to practise Western medical science under the Indian Medical Degrees Act, 1916, or any Indian system of medicine under this Act. VII 1916.

[1] This section was inserted by Bom. 33 of 1949, s. 34.

[2] Clauses (*c*) and (*d*) were deleted, *ibid.*, s. 35.

[3] These words were inserted, *ibid.*

Liberty to practise in rural areas.

37. Notwithstanding anything contained in this Part, a person may practise medicine in any rural area—

(*i*) if he has commenced practice in any village in the said area prior to a date on which a practitioner registered under Part II of this Act or under the Bombay Medical Act, 1912, has commenced and is in regular practice of medicine in the said village, and Bom. VI of 1912.

(*ii*) so long as he continues to practise in the said village as his principal place of practice.

Explanation.—For the purposes of this section, "rural area" means an area which is not within the limit of a municipality, cantonment or notified area committee.

Court competent to try offences under this Act and cognizance of offences.

38. (*1*) No Court other than the Court of a Presidency Magistrate or of a Magistrate of the First Class shall take cognizance of or try an offence under this Act.

(*2*) No Court shall take cognizance of any offence under this Act except on a complaint in writing of an officer empowered by the Provincial Government in this behalf.

Indemnity to persons acting under the Act.

39. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or regulations.

[1][*Schedule.*

(*1*) Ayurvedvisharad (D. A. S. F.) of the State Faculty for Ayurvedic System of Medicine.

(*2*) Mahire-tib-o-Jarahat (D. U. S. F.) of the State Faculty for Unani System of Medicine.

(*3*) Mahire-tib-o-Jarahat of the Board of Examiners in Unani obtained during 1942 and 1943.

(*4*) Ayurvidya-visharad of the Tilak Maharashtra Vidyapeeth, Poona, before 1944.

(*5*) Ayurvedteerth of Ayurved Mahavidyalaya, Ahmednagar, held before 1942.

(*6*) Ayurvedvisharad of Aryangla Vaidyak Mahavidyalaya, Satara, before 1942.

(*7*) Grihit Ayurvedshastra (L.A.M.) of U. P. Ayurved Mahavidyalaya, Patan (Baroda State), before 1942.

(*8*) Ayurvedacharya either with Medicine and Surgery or with Modern Medicine and Surgery of the Benares Hindu University, Benares.

(*9*) Fazil-e-tib-o-Jarahat and Kamil-e-tib-o-Jarahat of the Ayurvedic and Unani Tibbi College, Delhi.

(*10*) Licentiate of Indian Medicine of the Board of Examiners in Indian Medicine, Madras.

(*11*) Ayurvidya Parangat of the Tilak Maharashtra Vidyapeeth.]

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[1] This Schedule was inserted by Bom. 33 of 1949, s. 36.

THE BOMBAY GAS SUPPLY ACT, 1939.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Company to prepare and render accounts annually.
4. Audit of accounts.
5. Advisory Committee.
6. Rules to prescribe limits of prices.
7. Price in excess of limit not to be charged or recovered.
8. Penalty.
9. The principal officer to be liable for default made by the company.
10. Extension of the Act to persons manufacturing or supplying gas.
11. Rules.

BOMBAY ACT No. IX OF 1939.[1]

[THE BOMBAY GAS SUPPLY ACT, 1939.]

[*17th May 1939.*]

An Act to provide for the regulation of the prices for supply of gas in the Province of Bombay.

WHEREAS it is expedient to provide for the regulation of prices for the supply of gas in the Province of Bombay and for certain other matters; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Gas Supply Act, 1939.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may by notification in the Official Gazette appoint.

Definitions.

Bom. V of 1863.

2. In this Act unless there is anything repugnant in the subject or context,—

(*1*) "company" means the Bombay Gas Company, Limited, governed by the Gas Companies Act, 1863, or any other person to whom the provisions of this Act may, for the time being, be extended under section 10 and includes the successors and assigns of such company or person;

(*2*) "consumer" means any person who is supplied with gas by the company;

(*3*) "prescribed" means prescribed by rules made under this Act.

Company to prepare and render accounts annually.

3. (*1*) The company shall prepare and render to the Provincial Government or to such officer as the Provincial Government may appoint in this behalf, on or before the prescribed date in each year, a statement of accounts of its undertaking for such period, made up to such date, in such form and containing such particulars, as may be prescribed in this behalf.

(*2*) The company shall keep copies of such statement of accounts at its office and sell the same to any applicant at a price not exceeding that which may be prescribed.

Audit of accounts.

4. (*1*) The Provincial Government may direct that the statement of accounts of the undertaking shall, before being rendered under section 3, be examined and audited by such person as the Provincial Government may appoint or approve in this behalf.

(*2*) The remuneration of the auditor shall be such as the Provincial Government may direct and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the Provincial Government shall approve, shall be paid by the company on demand.

(*3*) The company shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 165 *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3638 or Bombay Legislative Council Debates, 1939, Vol. 6, p. 780. For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3193–3201 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 626–631.

(*4*) The audit shall be made and conducted in such manner as the Provincial Government may direct.

(*5*) If the company fails to pay the amount of the auditor's remuneration and the expenses incurred by him within the time fixed by the Provincial Government in this behalf, the same may be recovered from it as an arrear of land revenue.

Advisory Committee.

5. (*1*) The Provincial Government may by notification in the Official Gazette constitute an Advisory Committee.

(*2*) The Advisory Committee shall consist of a Chairman and not less than two other members.

(*3*) The Provincial Government may by general or special order,—

(*i*) define the powers, and duties and regulate the procedure of the committee,

(*ii*) determine the tenure of office of the members of the committee, and

(*iii*) give directions as to the payment of fees to, and the travelling expenses incurred by, any of the members of the committee in the execution of his duty.

Rules to prescribe limits of prices.

6. The Provincial Government may, from time to time in accordance with the recommendations of the Advisory Committee, make rules pescribing the limits of prices which the company may charge for the supply of gas to any consumer or class of consumers, in the whole of the province or in any specified area.

Price in excess of limit not to be charged or recovered.

7. Notwithstanding any contract or law, the company shall not, at any time, charge or recover from any consumer price for supply of gas to him in excess of the limit prescribed in this behalf by rules made under section 6.

Penalty.

8. Whoever contravenes any of the provisions of this Act shall on conviction be liable to a fine which may extend to one thousand rupees.

The principal officer to be liable for default made by the Company.

9. Where anything is required to be done by the company by or under any provision of this Act, the principal officer of the company shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purposes of this section, the principal officer of the company shall mean the director, secretary, treasurer, manager or agent of the company.

Extension of the Act to persons manufacturing or supplying gas.

10. The Provincial Government may, by notification in the Official Gazette, extend the provisions of this Act to any person who manufactures or supplies gas in any area within the Province of Bombay.

Rules.

11. (*1*) The Provincial Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters :—

(*a*) the date on or before which the statement of accounts of its undertaking shall be rendered by the company to the Provincial Government under sub-section (*1*) of section 3; the date up to which such statement shall be made and the particulars which it shall contain; and

(*b*) the maximum price at which copies of statement of accounts shall be sold, under sub-section (*2*) of section 3.

THE BOMBAY LIFTS ACT, 1939.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Extent and commencement.
3. Definitions.
4. Permission to erect a lift.
5. Licence to use a lift.
6. Applications for licence in case of existing lifts.
7. Lift not to be operated without a licence.
8. (*i*) Right to enter any building for inspection of lifts and lift installation, and

   (*ii*) Order for repairs, alterations to and discontinuance of lifts in an unsafe condition.
9. Report of accidents.
10. Delegation of the powers of Government.
11. Inspection of lifts.
12. Power to make rules.
13. Penalty.
14. Savings.

BOMBAY ACT No. X OF 1939.[1]

[THE BOMBAY LIFTS ACT, 1939.]

[*17th May 1939.*]

Amended by Bom. 17 of 1945.[2]

An Act to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the Province of Bombay.

WHEREAS it is expedient to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the Province of Bombay in manner hereinafter, appearing; It is hereby enacted as follows :—

1. This Act may be called the Bombay Lifts Act, 1939. **Short title.**

2. (*1*) This Act shall extend to the whole of the Province of Bombay. **Extent and commencement.**

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint.

3. In this Act, unless there is anything repugnant in the subject or context,— **Definitions.**

(*a*) " Inspectors of Lifts " means an officer appointed as such by the Provincial Government.

(*b*) " License " means a license granted under section 5.

(*c*) " Lift " means a hoisting mechanism equipped with a cage which moves in a substantially vertical direction, is worked by power and is designed or is actually used to carry passengers.

Explanation.—For the purposes of this clause a lift operator shall not be deemed to be a passenger.

(*d*) " Lift cage " means the car or cage of a lift used for the conveyance of passengers.

(*e*) " Lift installation " includes the lift cage, the lift way, the lift way enclosure and the operating mechanism of the lift and all ropes, cables, wirs and plant, directly connected with the operation of the lift.

(*f*) " Lift way " means the shaft in which the lift cage travels.

(*g*) " Lift way enclosure " includes any permanent substantial structure surrounding or enclosing the lift way.

(*h*) " Power " means any form of energy which is not generated by human or animal agency.

(*i*) " Prescribed " means prescribed by rules.

(*j*) " Rules " means rules made under section 12.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V. p. 665 *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3465 *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 777. For Report of the Select Committee, *See Bombay Government Gazette*, 1939, Part V, pp. 179–182. For Proceedings in Assembly *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 73–75, 2269, 3075 and 3201–3203 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 622–626.

[2] This Act was repealed and re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Permission to erect a lift.

4. Every owner of a place intending to install a lift in such place after the commencement of this Act, shall make an application to such officer as the Provincial Government may authorize in this behalf for permission to erect such lift. Such application shall be in writing and in such form as may be prescribed. Such application shall specify—

(*1*) the type of the lift,

(*2*) the rated maximum speed of the lift,

(*3*) the maker's or designer's rated capacity in weight,

(*4*) the maximum number of passengers in addition to the lift operator which the lift can carry,

(*5*) the total weight of the lift cage carrying the maximum load,

(*6*) the weight of the counterweight,

(*7*) the number, description, weight and size of the supporting cables,

(*8*) the depth of the pit from the lowest part of the cage when at the lowest floor,

(*9*) such details of the construction of the overhead arrangement with the weight and sizes of the beams as may be prescribed, and

(*10*) such other particulars as may be prescribed.

On receipt of such application the officer authorised under this section shall, after making such enquiry and requiring the applicant to furnish such information as may be necessary, forward the application with his remarks to the Provincial Government. The Provincial Government may thereupon either grant or refuse the permission. Such permission shall be valid only for a period of six months from the date on which it is granted.

Licence to use a lift.

5. (*1*) Every owner of a place who is permitted to instal a lift under section 4, shall, within one month after the completion of the erection of such lift deliver or send or cause to be delivered or sent to such Officer as the Provincial Government may authorise in this behalf notice in writing of such completion and shall make an application to him for a licence for working the lift.

(*2*) An application for a licence made under sub-section (*1*) shall be in such form as may be prescribed.

(*3*) On receipt of such application such officer as may be authorised in this behalf by the Provincial Government after making such enquiry as may be necessary forward the application with his remarks to the Provincial Government. The Provincial Government may, thereupon, either grant or refuse the licence.

(*4*) A fee of Rs. 20 shall be paid along with such application.

Applications for licence in case of existing lifts.

6. (*1*) Notwithstanding anything contained in sections 4 and 5 every owner of a place in which a lift has been installed before the date of the commencement of this Act, shall within two months from such date apply for a licence for the working of such lift.

(*2*) The provisions of sub-sections (*2*) to (*4*) of section 5 shall, so far as may be apply to such application.

Lift not to be operated without a licence.

7. Subject to such rules as may be made in this behalf no lift shall be worked except under and in conformity with the terms of the licence granted in respect of the same:

Provided that nothing in this section shall apply to a lift installed at the date of the commencement of this Act, for a period of two months from such date or if an application for license is made within that period in accordance with the provisions of section 6, until such application is finally disposed of under the said section.

8. (*1*) An officer authorized in this behalf by the Provincial Government may at any time after giving reasonable notice to the occupant enter upon any building in which a lift is installed or is being installed or in connection with which an application for a license has been received, for the purpose of inspecting the lift or the lift installation or the site thereof. Right to enter any building for inspection of lifts and lift installation.

(*2*) If on such inspection the Officer is of the opinion that any lift in any building is in an unsafe condition, he may issue an order on the owner of the building requiring such repairs or alterations to be made to such lift as he may deem necessary within the time specified therein and may also, if necessary, order the use of such lift to be discontinued until such repairs or alterations are made or such unsafe condition is removed. An appeal shall lie from such order to the Provincial Government and any order passed by the Provincial Government in such appeal shall be final. Order for repairs, alterations to and discontinuance of lifts in an unsafe condition.

9. (*1*) Where any accident occurs in the operation of any lift resulting in injury to any person the owner of the building in which the lift is working or if such owner has appointed an agent and has communicated his name to the Inspector of Lifts under sub-section (*3*), such agent shall as soon as may be after such accident give notice with full details of the accident to the Inspector of Lifts and also in [1][the Greater Bombay] to the Commissioner of Police and elsewhere to the District Magistrate and the working of such lift shall not be resumed except with the written permission of the officer authorised in this behalf by the Provincial Government. Report of accidents.

(*2*) For the purposes of sub-section (*1*), the owner of every building in which a lift has been installed may and if such owner does not reside in such building, shall appoint an agent who shall be a resident in the town or village in which the building is situate to give notice of any accident occurring in the operation of the lift.

(*3*) The name of every agent appointed under sub-section (*2*) shall be communicated to the Inspector of Lifts.

10. The Provincial Government may delegate any of the powers conferred on it by or under this Act to such officer as it thinks fit. Delegation of the powers of Government.

11. Every lift shall be inspected at least once in six months by an officer authorised in this behalf by the Provincial Government. An annual fee of Rs. 15 shall be charged for such inspection and such fee shall include the charges for the inspection of the motor. Inspection of lifts.

12. (*1*) The Provincial Government may, from time to time by notification in the Official Gazette, make rules to carry out the purposes of this Act. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for the following matters, namely :—

(*a*) specifications for lifts,

(*b*) the manner in which erection plans of lifts shall be submitted,

(*c*) the manner in which the lifts may be tested,

(*d*) the form of application for the erection of a lift or a licence for working the same,

(*e*) the terms and conditions subject to which and the form in which the licenses may be granted for the working of a lift under section 7,

[1] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9 and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

(*f*) the manner in which and the terms subject to which the lifts shall be worked under section 7,

(*g*) the manner in which notice of accidents shall be given and the form of such notice, and

(*h*) the form of notice to be given under section 8.

Penalty.

13. Whoever contravenes any of the provisions of this Act, rules or conditions of a license or a direction given by the Inspector of Lifts under this Act or the rules shall, on conviction, be punishable with a fine which may extend to five hundred rupees and, in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention.

Savings.

14. Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910, or any rules made thereunder. IX of 1910.

THE BOMBAY REVENUE TRIBUNAL ACT, 1939.

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2. Definitions.

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4. Powers and functions of the Tribunal.
5. The Tribunal to exercise all powers which Provincial Government could have exercised.
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7. Review of the orders of the Tribunal.
8. Appeal and application for revision in cases under this Act to lie direct to the Tribunal.
9. Abolition of the Bombay Revenue Tribunal constituted by Government Notification (Revenue Department), No. 4877/33, dated the 1st April 1937 and disposal of pending cases.
10. Manner of executing orders passed by Tribunal.

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11. Exemption from court-fees.
12. Rules.
13. Regulations for the business and procedure of the Tribunal.

BOMBAY ACT No. XII OF 1939.[1]

[THE BOMBAY REVENUE TRIBUNAL ACT, 1939.]

[*29th May 1939.*]

An Act to provide for the constitution of a Revenue Tribunal for the Province of Bombay.

WHEREAS it is expedient to provide for the constitution of a Revenue Tribunal for the Province of Bombay by an Act of the Provincial Legislature; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Revenue Tribunal Act, 1939.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Commissioner" includes a Commissioner appointed as such under the Bombay Abkari Act, 1878, for the purposes of that Act.

Bom. V of 1878.

(*2*) "Prescribed" means prescribed by rules made under this Act.

(*3*) "Schedule" means the Schedule to this Act.

(*4*) "Tribunal" means the Bombay Revenue Tribunal constituted under section 3.

CHAPTER II.

CONSTITUTION, POWERS AND FUNCTIONS OF THE BOMBAY REVENUE TRIBUNAL.

Constitution of Tribunal.

3. (*1*) The Provincial Government shall constitute a tribunal to be called the Bombay Revenue Tribunal. The Tribunal shall consist of such number of members, possessing such qualifications, as may be prescribed.

(*2*) Any vacancy in the membership of the Tribunal shall be filled up in the manner prescribed.

Powers and functions of the Tribunal.

4. (*1*) The Tribunal shall exercise such jurisdiction to entertain appeals and revise decisions in revenue cases as was vested in the Provincial Government immediately before the first day of April 1937 under any law for the time being in force.

(*2*) In particular and without prejudice to the generality of the foregoing provision the Tribunal shall have jurisdiction to entertain appeals and revise decisions—

(*a*) in all revenue cases, arising under the provisions of the enactments specified in the Schedule in which such jurisdiction was vested in the Provincial Government immediately before the first day of April 1937, and

(*b*) in all cases specified in section 9.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, pp. 76–77 *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3678–79 *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 772; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3091–3104 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 610-621.

(*3*) Save as expressly provided in any enactment for the time being in force, the Provincial Government may, by notification in the Official Gazette, direct by general or special order that the Tribunal shall also have jurisdiction to entertain and decide appeals and applications for revision in any case in which the Provincial Government may have jurisdiction to entertain and decide such appeals and applications. The Provincial Government may, at any time, by like notification cancel any direction issued by it under this sub-section.

The Tribunal to exercise all powers which Provincial Government could have exercised.

5. In the exercise of the jurisdiction conferred upon it under section 4 in any case, the Tribunal shall have and may exercise all the powers which the Provincial Government had or could have exercised in such case.

No appeal to lie.

6. No appeal shall lie against any order passed by the Tribunal in the exercise of its powers of appeal or revision under section 4.

Review of the orders of the Tribunal.

7. (*1*) The Tribunal may, either on its own motion or on the application of any party interested, review its own decision or order in any case and pass in reference thereto such order as it thinks fit:

Provided that no such application made by any party shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by him at the time when its decision was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason:

Provided further that no such decision or order shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(*2*) An application for review under sub-section (*1*) by any party shall be made within 90 days from the date of the decision or order of the Tribunal:

Provided that in computing the period of limitation, the provisions of the Indian Limitation Act, 1908, applicable to applications for review of a judgment or order of a civil court shall, so far as may be, apply to applications for review under this section. IX of 1908.

Appeal and application for revision in cases under this Act to lie direct to the Tribunal.

8. Notwithstanding anything to the contrary contained in any law for the time being in force, no appeal or application for revision shall lie to the Commissioner in any case in which an appeal or application for revision lies to the Tribunal under this Act.

Abolition of the Bombay Revenue Tribunal constituted by Government Notification (Revenue Department) No. 4877/33, dated the 1st April 1937 and disposal of pending cases.

9. From the date on which this Act comes into force, the Bombay Revenue Tribunal constituted by Government Notification in the Revenue Department, No. 4877/33, dated the 1st day of April 1937, shall be deemed to have been abolished and all appeals and applications for revision pending before the said Tribunal on the said date shall be deemed to have been instituted before the Tribunal and shall be decided by it as if they were instituted before it.

10. All order passed by the Tribunal shall be executed in the same manner in which similar orders, if passed by the Provincial Government or other competent authority, as the case may be, could have been executed. Manner of executing orders passed by Tribunal.

CHAPTER III.

MISCELLANEOUS.

VII of 1870. **11.** Notwithstanding anything contained in the Court-fees Act, 1870, no court-fee shall be levied on any application made under this Act. Exemption from court fees.

12. (*1*) The Provincial Government may, by notification in the Official Gazette, make rules consistent with the provisions of this Act for carrying out the purposes of this Act, save in regard to the matters specified in section 13. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters :—

(*a*) the number and qualifications of members constituting the Tribunal and

(*b*) the manner in which any vacancy in the Tribunal shall be filled.

(*3*) Such rules shall be subject to the condition of previous publication.

13. (*1*) Subject to the previous sanction of the Provincial Government, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made under section 12 for regulating its procedure and the disposal of its business. Such regulations may provide for the disposal of any case or class of cases by one or more of its members. Regulations for the business and procedure of the Tribunal.

(*2*) The regulations made under sub-section (*1*) shall be published in the Official Gazette.

SCHEDULE.

Serial No.	Act.	Jurisdiction.
1	2	3
1	The Bombay Rent-free Estates Act, 1852 (XI of 1852).	Appeals or revisions which lie to the Tribunal under Rule 2 of Schedule A to the Act.
2	The Exemptions from Land-revenue (No. 1) Act, 1863 (II of 1863).	Appeals in revenue cases made under section 13 of the Act.
3	The Exemptions from Land-revenue (No. 2) Act, 1863 (VII of 1863).	Appeals in revenue cases made under section 28 of the Act.
4	The Bombay Hereditary Offices Act, 1874 (Bom. III of 1874).	Revision of decisions in revenue cases under section 79 of the Act.
5	The Bombay City Land-revenue Act, 1876 (Bom. II of 1876).	Revision of the Collector's orders in revenue cases under sections 8 and 12 of the Act.
6	The Bombay Abkari Act, 1878 (Bom. V of 1878).	Appeals in revenue cases under section 60 of the Act.

Serial No.	Act.	Jurisdiction.
1	2	3
7	The Bombay Land Revenue Code, 1879 (Bom. V of 1879.)	Appeals and revision in revenue cases under sections 204 and 211 of the Code.
8	The Khoti Settlement Act, 1880 (Bom. I of 1880).	Appeals in revenue cases under section 20 (2) of the Act.
9	The Matadars Act, 1887 (Bom. VI of1887).	Revision of decisions in revenue cases under section 4 of the Matadars Act 1887 (Bom. VI of 1887), read with section 79 of the Bombay Hereditary Offices Act, 1874 (Bom. III of 1874).
10	The Gujarat Talukdars' Act, 1888 (Bom. VI of 1888).	Appeals and revision in revenue cases specified against the Bombay Land Revenue Code, 1879, read with section 33 of the Gujarat Taluqdars' Act, 1888(Bom. VI of 1888).
11	The Indian Mines Act, 1923 (IV of 1923) ..	Revision in revenue cases under section 47 of the Act and appeals and revisions under Government Notification, Revenue Department, No. 1191, dated 5th February 1918.
12	The Indians Forests Act, 1927 (XVI of 1927)	Revision in revenue cases under sections 18 and 22 of the Act.
13	The Bombay (District) Tobacco Act, 1933 (Bom. II of 1933).	Appeals and revision in revenue cases under section 26 of the Act.

THE BOMBAY CHARGED EXPENDITURE ACT, 1939.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Repeal of section 63 of Bom. V of 1878.
3. Amendment of section 9 of Bom. XXXIV of 1935.
4. Amendment of section 7 of Bom. XIX of 1936.
5. Expenditure incurred on account of guarantee and payments to the Bagalkot Cement Company to be charged on the revenues of the Province.

BOMBAY ACT No. XIII OF 1939.[1]

[THE BOMBAY CHARGED EXPENDITURE ACT, 1939.]

[*15th June 1939.*]

Amended by Bom. 29 of 1949.

An Act to amend certain enactments and to provide that certain expenditure shall be charged on the revenues of the Province.

WHEREAS it is expedient to amend certain enactments and to provide that certain expenditure incurred by the Provincial Government shall be charged on the revenues of the Province; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Charged Expenditure Act, 1939.

(*2*) It shall come into force on the 31st March 1939.

Repeal of section 63 of Bom. V of 1878.

Bom. V of 1878.

2. Section 63 of the Bombay Abkari Act, 1878, shall be repealed.

3–4. [*The amendments made by sections 3 and 4 of this Act have been incorporated in the Bombay Motor Vehicles Tax Act, 1935 and the Bombay Famine Relief Fund Act, 1936, respectively.*]

Expenditure incurred on account of guarantee and payments to the Bagalkot Cement Company to be charged on the revenues of the Province.

[2][5. (*1*) (*a*) Subject to and in accordance with the terms of the agreement dated the 23rd March 1949 made between the Governor of Bombay and the Bagalkot Cement Company Limited (hereinafter called 'the Company') and the other parties specified in the said agreement and sanctioned by the Provincial Government, by Government Resolution (Education and Industries Department) No. 7989, dated the 26th March 1949;

(*b*) and subject also to such modifications as may from time to time lawfully be made in the terms of the said agreement, not being inconsistent with the following provisions of this sub-section,

for a period of five years from the date of the first allotment of the shares of the Company, the Provincial Government shall guarantee to all the ordinary share-holders of the Company, a dividend at the rate of three per cent. per annum on the ordinary shares held by them and shall pay to the Company on behalf of and as a trustee for such ordinary share-holders every year such amount as may be necessary to enable the Company to distribute to its ordinary share-holders a yearly dividend at the rate of three per cent. per annum on the total subscribed ordinary share capital of the Company not exceeding the face value of rupees one crore :

Provided that in no event shall the amount payable by the Provincial Government to the Company under the said guarantee exceed the aggregate sum of rupees fifteen lacs for the said entire period of five years.

(*2*) The expenditure incurred by the Provincial Government under sub-section (*1*) shall be charged on the revenues of the Province.]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, pp. 45–46 *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3581 *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 726; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 2128–2161, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 341–344.

[2] This section was added by Bom. 29 of 1949, s. 2.

THE TRANSFER OF PROPERTY AND THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1939.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Application of Act.
3. Amendment of section 52 of Act IV of 1882.
4. Amendment of sections 18 and 28 of Act XVI of 1908.

BOMBAY ACT No. XIV OF 1939.[1]

[THE TRANSFER OF PROPERTY AND THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1939.]

[*15th June 1939.*]

Amended by Bom. 17 of 1945*.

An Act to amend the Transfer of Property Act, 1882,[2] and the Indian Registration Act, 1908,[2] in their application to the Province of Bombay.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882, and the Indian Registration Act, 1908, in their application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Transfer of Property and the Indian Registration (Bombay Amendment) Act, 1939. Short title.

2. This Act shall apply to notices in respect of suits or proceedings which relate to immovable properties situate wholly or partly in [3][the Greater Bombay] with effect from such date as may be directed by the Provincial Government in this behalf by notification in the Official Gazette : Application of Act.

Provided that the Provincial Government may by similar notification direct that the provisions of this Act shall apply to such notices relating to immovable properties situate wholly or partly in such other area as may be specified in the said notification.

IV of 1882. **3.** Section 52 of the Transfer of Property Act, 1882, shall be renumbered as sub-section (*1*) of section 52 of the said Act and Amendment of section 52 of Act IV of 1882.

(*i*) in sub-section (*1*) so renumbered afer the word " question ", the words and figures " if a notice of the pendency of such suit or proceeding is registered under section 18 of the Indian Registration Act, 1908 ", and after the word " property " where it occurs for the second time, the words " after the notice is so registered ", shall be inserted ; and

XVI of 1908.

(*ii*) after the said sub-section (*1*) so renumbered the following shall be inserted, namely :—

" (*2*) Every notice of pendency of a suit or proceeding referred to in sub-section (*1*) shall contain the following particulars, namely :—

(*a*) the name and address of the owner of immovable property or other person whose right to the immovable property is in question ;

(*b*) the description of the immovable property, the right to which is in question ;

(*c*) the court in which the suit or proceeding is pending ;

(*d*) the nature and title of the suit or proceeding ; and

(*e*) the date on which the suit or proceeding was instituted. "

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 67 *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3683, *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 767. For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3108-3111 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 600-638.

[2] Central Acts.

[3] These words were substituted for the words " the City of Bombay " by Bom. 17 of 1945, s. 9 and Sch. E read with Bom. 52 of 1947, s. 2, proviso.

* This Act was repealed and re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Amendment of sections 18 and 28 of Act XVI of 1908.

4. In the Indian Registration Act, 1908,—

(*1*) in section 18—

(*i*) the word "and" after clause (*c*) shall be deleted ; and

(*ii*) after clause (*c*) the following shall be inserted, namely :—

"(*cc*) notices of pending suits or proceedings referred to in section 52 of the Transfer of Property Act, 1882 ; and" ; and IV of 1882.

(*2*) in section 28 for the brackets, letters and word "(*b*) and (*c*)", the brackets, letters and word "(*b*), (*c*) and (*cc*)", shall be substituted.

THE PRESIDENCY-TOWNS INSOLVENCY AND THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1939.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Amendment of sections 9 and 112 of Act III of 1909 and insertion of new sections 9A and 101A therein.

3. Amendment of sections 6 and 79 of Act V of 1920 and insertion of new section 6A therein.

BOMBAY ACT No. XV OF 1939.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY AND THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1939.]

[*19th June 1939.*]

An Act to amend the Presidency-towns Insolvency Act, 1909[2] and the Provincial Insolvency Act, 1920[3] in their application to the Province of Bombay.

III of 1909. V of 1920.

WHEREAS it is expedient to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, in their application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Preidency-towns Insolvency and the Provincial Insolvency (Bombay Amendment) Act, 1939.

III of 1909.

Amendment of sections 9 and 112 of Act III of 1909 and insertion of new sections 9A and 101A therein.

2. In the Presidency-towns Insolvency Act, 1909,—

(*a*) In section 9 after clause (*h*), the following new clause shall be inserted, namely :—

" (*i*) if, after a creditor has served an insolvency notice on him in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not within the period specified in the notice which shall not be less than one month comply with the requirements of the notice :

Provided that the debtor shall not be deemed to have committed an act of insolvency for not complying with the requirements of the notice, if he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him " ;

(*b*) after section 9, the following new section shall be inserted, namely :—

Insolvency notice.

" 9A. (*1*) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner. It shall require the debtor to pay the amount due under the decree or order, or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent and shall state the consequences of non-compliance with the notice.

(*2*) Such notice shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement ; but if the debtor does not give such notice, he shall be deemed to have complied with

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 595–596, *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3681 *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 724 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3104–3108 ; and for Proceedings in Council *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 309–339.

[2] Central Acts, Vol. III.

[3] Central Acts, Vol. VII.

the insolvency notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein " ;

(*c*) after section 101, the following new section shall be inserted, namely :—

Limitation.

" 101A. Where an order of adjudication has been annulled under this Act, in computing the period of limitation prescribed for any suit or application for the execution of a decree (other than a suit or application in respect of which leave of the Court was obtained under section 17) which might have been brought or made but for the making of an order of adjudication under this Act, the period from the date of the order of adjudication to the date of the order of annulment shall be excluded :

Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act " ; and

(*d*) in sub-section (*2*) of section 112, after clause (*a*) the following clause shall be inserted, namely :—

" (*aa*) the form of insolvency notice and the manner in which it may be served ; " .

Amendment of sections 6 and 79 of Act V of 1920 and insertion of new section 6A therein.

3. In the Provincial Insolvency Act, 1920,— V of 1920.

(*a*) in section 6, after clause (*h*), the following new clause shall be inserted, namely :—

" (*i*) if after a creditor has served an insolvency notice on him in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not within the period specified in the notice which shall not be less than one month comply with the requirements of the notice :

Provided that the debtor shall not be deemed to have committed an act of insolvency for not complying with the requirements of the notice, if he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him " ;

(*b*) after section 6, the following new section shall be inserted, namely :—

Insolvency notice.

" 6A. (*1*) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner. It shall require the debtor to pay the amount due under the decree or order, or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent and shall state the consequences of non-compliance with the notice.

(*2*) Such notice shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement ; but if the debtor does not give such notice, he shall be deemed to have complied with the insolvency notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein. " and

(*c*) in sub-section (*2*) of section 79, after clause (*a*) the following clause shall be inserted, namely :—

" (*aa*) the form of insolvency notice and the manner in which it may be served ; " .

THE BOMBAY AGRICULTURAL PRODUCE MARKETS ACT, 1939.

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4. Declaration of market areas.
5. Establishment of market committees.
6. Constitution of market committees.

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7. Incorporation of market committee.
8. Appointment of sub-committees and joint-committees : delegation of powers.
9. Appointment and salaries of servants of the market committee.
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21. Penalty for making or recovering trade allowance other than an allowance prescribed by rules or bye-laws made under this Act.
22. Bar of suit in absence of notice.
23. Trial of offences.
24. Recovery of sums due to Government from market committee.
25. Power of the Provincial Government to delegate its powers.
26. Rules.
27. Bye-laws.
28. Power of Provincial Government to call for proceedings of market committee and to pass orders thereon.
29. Power of Provincial Government to amend the schedule.
29A. Validation of acts of Directors.
30. Savings.
31. Repeal of Bom. XVII of 1927.

BOMBAY ACT No. XXII OF 1939.[1]

[THE BOMBAY AGRICULTURAL PRODUCE MARKETS ACT, 1939.]

[*2nd November 1939.*]

Amended by Bom. 57 of 1948.

An Act to provide for the better regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce in the Province of Bombay.

WHEREAS it is expedient to provide for the better regulation of buying and selling of agricultural produce in the Province of Bombay and establishment of markets for agricultural produce; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Agricultural Produce Markets Act, 1939.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "Agricultural Produce" includes all produce of agriculture, horticulture and animal husbandry specified in the Schedule;

(*ii*) "Agriculturist" means a person who ordinarily by himself or who by his tenants or hired labour or otherwise is engaged in the production or growth of agricultural produce, but does not include a dealer or broker in agricultural produce although such dealer or broker may also be engaged in the production or growth of agricultural produce;

(*iii*) "Bye-laws" means bye-laws made under section 27;

[2][(*iv*) "Director" means the Director of Agricultural Marketing and Rural Finance for the Province of Bombay;]

(*v*) "Market" means a market established for the purposes of this Act;

(*vi*) "Market Area" means any area declared to be a market area under section 4;

(*vii*) "Market committee" means a committee established under section 5;

(*viii*) "Municipality" includes a notified area committee;

(*ix*) "Prescribed" means prescribed by rules made under section 26;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 471 *or* Bombay Legislative Assembly Debates, 1939, Vol. 7, p. 2372; *or* Bombay Legislative Council Debates, 1939, Vol. 8, pp. 447–48; for report of the Select Committee, *see Bombay Government Gazette*, 1939, Part V, pp. 475–77; *or* Bombay Legislative Council Debates, 1939, Vol. 8, pp. 448–50; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 7, pp. 2141–82, 2185–90; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 8, pp. 12–44, 46–53, 68–71, 189–90.

[2] This clause was substituted for the original by Bom. 57 of 1948, s. 2. All Acts done by the Director of Rural Development for the Province of Bombay before the coming into force of the said Act have been saved by section 29A, *infra*.

[1] [(*ixa*) 'retail sale' means a sale of any agricultural produce not exceeding such quantity as a market committee may by bye-laws made under section 27 determine to be a retail sale in respect of such agricultural produce;]

(*x*) "Rules" means rules made under section 26;

(*xi*) "Schedule" means Schedule to this Act.

(*2*) If a question arises whether any person is or is not an agriculturist for the purpose of this Act the decision of the Provincial Government on such question shall be final.

CHAPTER II.

CONSTITUTION OF MARKETS AND MARKET COMMITTEES.

Notification of intention of exercising control over purchase and sale of agricultural produce in specified area.

3. (*1*) The Provincial Government may, by notification in the Official Gazette, declare its intention of regulating the purchase and sale of such agricultural produce and in such area, as may be specified in the notification. Such notification may also be published in the regional languages of the area and in such other manner as the Provincial Government may deem fit.

(*2*) A Notification under sub-section (*1*) shall state that any objection or suggestion which may be received by the Provincial Government within a period of not less than one month to be specified in the notification shall be considered by the Provincial Government.

Declaration of market areas.

4. (*1*) After the expiry of the period specified in the notification issued under section 3 and, after considering such objections and suggestions as may be received before such expiry and after holding such inquiry as may be necessary, the Provincial Government may, by notification in the Official Gazette, declare the area specified in the notification under section 3 or any portion thereof to be a market area for the purposes of this Act in respect of all or any of the kinds of agricultural produce specified in the said notification. A notification under this section may also be published in the regional languages of the area in a newspaper circulated in the said area and may also be published in such other manner as the Provincial Government may deem fit.

(*2*) On and after the date of the notification issued under sub-section (*1*) or such later date as may be specified therein, no local authority notwithstanding anything contained in any law and no other person shall, within the market area or within a distance thereof to be notified in the Official Gazette in this behalf in each case by the Provincial Government, set up, establish, or continue or allow to be set up, established or continued any place for the purchase or sale of any agricultural produce so notified, except under a license granted by the Provincial Government and except in accordance with the provisions of this Act, rules and bye-laws and of the conditions specified in the license.

Explanation.—A local authority or any other person shall not be deemed to set up, establish, or continue or allow to be set up, established or continued a place as a place for the purchase and sale of agricultural produce within the meaning of this section if the seller is himself the producer of the agricultural produce offered for sale at such place or any person employed by such producer to transport the same

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[1] This clause was inserted by Bom. 57 of 1948, s. 2.

and the buyer is a person who purchases such produce for his own private use [1][or if the agricultural produce is sold by a retail sale to a person who purchases such produce for his own private use.]

(*3*) The Provincial Government may, on the report of the Director or the Collector or of the market committee or an officer appointed by the Provincial Government in this behalf and after such inquiry as it deems fit to make, suspend or cancel any license granted under sub-section (*2*).

(*4*) Subject to the provisions of section 2, the Provincial Government may at any time by notification in the Official Gazette exclude from a market area any area or any agricultural produce comprised therein or include in any market area any area or any agricultural produce included in a notification issued under section 3.

Establishment of market committees.

5. The Provincial Government shall establish a market committee for every market area in respect of the agricultural produce for which said area is declared to be a market area under section 4. It shall be the duty of the market committee to enforce the provisions of this Act, the conditions of a license granted under sub-section (*2*) of section 4 and the rules and bye-laws made under this Act in such market area and within the distance thereof notified under sub-section (*2*) of section 4 and when so required by the Provincial Government to establish a market therein providing for such facilities as the Provincial Government may from time to time direct, in connection with the purchase and sale of the agricultural produce concerned.

Constitution of market committees.

6. (*1*) Every market committee shall be constituted as prescribed and shall consist of not less than 12 and not more than 15 members. Of these—

(*i*) not less than one-third shall be persons elected by such organizations of agriculturists in the area for which it is established, as the Provincial Government may prescribe and where no such organisations exist, by the agriculturists residing in the said area in the manner prescribed ;

(*ii*) not less than one-third shall be persons elected by the persons licensed under sub-section (*2*) of section 4 and by the traders approved by the Market committee in the manner prescribed ;

(*iii*) one shall be a person elected—

(*a*) by the councillors of a municipality from among themselves, in case the market area is wholly within the limits of such municipality, or

(*b*) by the members of a district local board from among themselves, in case the market area is wholly within the limits of the said district local board but not of a village panchayat, or

(*c*) by the members of a village panchayat from among themselves, in case the market area is wholly within the limits of the said village panchayat :

Provided that a person to whom a license has been granted under sub-section (*2*) of section 4 shall not be eligible for being elected under this clause.

Provided further that if the market area is within the limits of more than one local authority, the member shall be elected by the local authorities concerned in the manner prescribed ;

(*iv*) the remaining members shall be persons nominated by the Provincial Government :

[1] These words were added by Bom. 57 of 1948, s. 3.

Provided that the Provincial Government may, at any time, reduce the number of nominated members for any market area and increase the number of members elected under clauses (*i*) and (*ii*) in equal proportion.

(*2*) Notwithstanding anything contained in sub-section (*1*)—

(*a*) on the failure of any organisation, person or authority to elect a member under sub-section (*1*) within a period of six months from the date of the occurrence of the vacancy, the Provincial Government shall give notice in writing to the organisation, person or authority concerned to elect a member within a month from the date of such notice and on the failure of the organisation, person or authority again to elect a member within the said period, the Provincial Government shall nominate a person on behalf of such organisation, person or authority as a member of the market committee; and

(*b*) subject to the provisions of section 31, when a market committee is constituted for the first time all the members of the market committee shall be persons nominated by the Provincial Government.

(*3*) Every member of a market committee elected or nominated when it is first constituted shall hold office for a term of two years [1][from the date of the first general meeting of the market committee] and every such member elected or nominated thereafter shall hold office for a term of three years:

Provided that a member elected under clause (*iii*) of sub-section (*1*) shall cease to hold office as such member if he ceases to be a member of the electorate by which he was elected or if he is granted a license under sub-section (*2*) of section 4.

(*4*) If at any time a vacancy occurs through the non-acceptance of office by a person elected or nominated or through the death, disqualification or resignation of a member before the expiry of his term of office, the vacancy shall be filled up by the election or nomination, as the case may be, of a person thereto in the manner specified above. Every such person shall hold office so long only as the member in whose place he is elected or nominated would have held it if the vacancy had not occurred.

(*5*) Every market committee shall elect one of its members to be its chairman [2][and another member to be its vice-chairman.]

CHAPTER III.

Incorporation of Market Committee: Its Powers and Duties.

Incorporation of market committee.

7. Every market committee shall be a body corporate by such name as the Provincial Government may specify by notification in the Official Gazette. It shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall be competent to acquire and hold, lease, sell or otherwise transfer any property and to contract and to do all other things necessary for the purposes for which it is established.

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[1] These words were inserted by Bom. 57 of 1948, s. 4.

[2] These words were added, *ibid*.

8. The market committee may appoint one or more of its members to be a sub-committee or to be a joint committee for the conduct of any work or to report on any matter or matters and may delegate to such committee or any one or more of its members such of its powers or duties as it may think fit. Appointment of sub-committees and joint-committees: delegation of powers.

9. (*1*) The market committee may employ such officers and servants as may be necessary for the management of the market and may pay such officers and servants such salaries as the market committee thinks fit. The market committee shall, in the case of any officer or servant of Government whom it employs, pay such pension contribution, gratuity or leave allowance as may be required by the conditions of his service under the Crown for the time being in force. Appointment and salaries of servants of the market committee.

(*2*) The market committee may also, in the case of any of its officers and servants, provide for the payment to them of such leave allowances, pensions or gratuities as it deems proper, and may contribute to any provident fund which may be established for the benefit of such officers and servants.

(*3*) The powers conferred by this section on the market committee shall be exercised subject to any rules which may be made in this behalf by the Provincial Government.

10. (*1*) Every contract entered into by the market committee shall be in writing and shall be signed on behalf of the market committee by its chairman, and two other members of the committee. Execution of contracts.

(*2*) No contract other than a contract executed as provided in sub-section (*1*) shall be binding on the market committee.

11. The market committee may subject to the provisions of rules and subject to such maxima as may be prescribed levy fees on the agricultural produce bought and sold by licensees in the market area. Power to levy fees.

12. (*1*) Notwithstanding anything contained in the Bombay Weights and Measures Act, 1932, if any difference arises between an inspector appointed under section 19 of the said Act and any person interested as to the meaning or construction of any rule or regulation or as to the method of verifying, adjusting or stamping any weight or measure or weighing or measuring instrument in any market area such difference may at the request of the person interested or by the inspector of his own accord be referred to the market committee and the decision of the market committee shall, subject to the provisions of sub-section (*2*), be final and shall be deemed to have been given under section 25 of the Bombay Weights and Measures Act, 1932. Bom. XV of 1932. Certain differences regarding construction of rules, etc., about weights and measures to be decided by market committee.

(*2*) An appeal shall lie within the time prescribed from the decision under sub-section (*1*) to the Provincial Government or such officer as the Provincial Government may appoint in this behalf. The decision of the Provincial Government or such officer shall be final.

13. (*1*) All monies received by a market committee shall be paid into a fund to be called "the market committee fund" and all expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the market committee after such expenditure has been met shall be invested as may be prescribed in this behalf. Market Committee Fund.

(*2*) Every market committee shall pay to the Provincial Government the cost of any additional or special staff employed by the Provincial Government in consultation with such market committee for giving effect to the provisions of this Act in the market area for which such market committee is established.

(*3*) The Provincial Government shall determine the cost of such additional or special staff and shall, when the staff is employed for the purposes of more than one market committee apportion such cost among the committees concerned in such manner as it thinks fit. The decision of the Provincial Government determining the amount payable by any market committee shall be final.

Purposes for which the fund shall be expended.

14. Subject to the provisions of section 13, the market committee fund shall be expended for the following purposes, namely :—

(*1*) The acquisition of a site or sites for the market;

(*2*) the maintenance and improvement of the market;

(*3*) the construction and repair of buildings necessary for the purposes of such market and for the health, convenience and safety of the person using it;

(*4*) the provision and maintenance of standard weights and measures;

(*5*) the pay, pensions, leave allowances, gratuities, compensations for injuries resulting from accidents, compassionate allowances and contributions towards leave allowances, pensions or provident fund of the officers and servants employed by it;

(*6*) the expenses of and incidental to elections;

(*7*) the payment of interest on the loans that may be raised for the purposes of the market and the provision of sinking fund in respect of such loans;

(*8*) the collection and dissemination of information regarding matters relating to crop statistics and marketing in respect of the agricultural produce notified under section 4;

(*9*) payments of the cost referred to in sub-sections (*2*) and (*3*) of section 13; and

(*10*) propaganda in favour of agricultural improvement.

Power to borrow.

15. (*1*) A market committee may, with the previous sanction of the Provincial Government, raise money required for carrying out the purposes for which it is established on the security of any property vested in it and of any fees leviable by it under this Act.

(*2*) The market committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the Provincial Government.

(*3*) The conditions subject to which such money or loan shall raised or obtained and the time within which the same shall be repayable shall be subject to the previous sanction of the Provincial Government.

Acquisition of land for the market committee.

16. When any land is required for the purposes of this Act, the Provincial Government may, on the request of the market committee requiring it, proceed to acquire it under the provisions of the Land Acquisition Act, 1894, or other law for the time being in force, and, on payment by the market committee of the compensation awarded under that Act or other law, as the case may be, and of all other charges incurred by the Provincial Government on account of the acquisition, the land shall vest in the market committee. 1 of 1894.

CHAPTER IV.

TRADE ALLOWANCES.

17. No person shall make or recover any trade allowance, other than an allowance prescribed by rules or bye-laws made under this Act, in any market area in any transaction in respect of the agricultural produce concerned and no civil court shall, in any suit or proceeding arising out of any such transaction, have regard to or recognise any trade allowance not so prescribed. No Trade allowance permissible except as prescribed.

Explanation.—Every deduction other than a deduction on account of deviation from sample when the purchase is made by sample or on account of deviation from standard when the purchase is made by reference to a known standard or on account of difference between the actual weight of the container and the standard weight or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purposes of this section.

CHAPTER V.

MISCELLANEOUS.

18. (*1*) The Provincial Government may, if it thinks fit, on the recommendation of the market committee supported by at least two-thirds of the whole number of members, remove any member of the market committee elected or nominated under this Act, if such member has, in the opinion of the Provincial Government, been guilty of neglect or misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member : Liability of members of market committee to removal from office.

Provided that no resolution recommending the removal of any member shall be passed by the market committee unless the member to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

(*2*) The decision of the Provincial Government under sub-section (*1*) shall be final.

19. (*1*) If in the opinion of the Provincial Government a market committee is not competent to perform or persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers the Provincial Government may, by notification in the Official Gazette, supersede such market committee : Supersession of market committee.

Provided that before issuing a notification under this sub-section, the Provincial Government shall give a reasonable opportunity to the market committee for showing cause why it should not be superseded and shall consider the explanations and objections, if any, of the market committee.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding a market committee the following consequences shall ensue—

(*i*) all the members as well as the chairman of the market committee shall as from the date of such publication be deemed to have vacated their offices ;

(*ii*) the Provincial Government may, at their discretion, by order, either constitute a new market committee under section 6 or make such arrangements for the carrying out of the functions of the market committee, as it may think fit ; and

(*iii*) all the assets vesting in the market committee shall, subject to all its liabilities vest in the Crown for purposes of the Province.

(*3*) If the Provincial Government makes an order under clause (*ii*) of sub-section (*2*), it shall transfer the assets and liabilities of the market committee as on the date of such transfer, to the new market committee constituted under section 6 or to the person or persons, if any, appointed for carrying out the functions of the market committee, as the case may be.

(*4*) If the Provincial Government does not make such an order, it shall transfer all the assets of the market committee which remain after the satisfaction of all its liabilities, to the local authority within whose jurisdiction the market committee is situated or if there are more than one such authorities to each of such authorities any such portion of the assets as the Provincial Government may determine.

(*5*) A local authority to which the assets of a market committee have been transferred under sub-section (*4*) shall utilise such assets for such object in the area within its jurisdiction as the Provincial Government considers to be for the benefit of the agriculturists in that area.

Penalty for contravention of section 4.

20. Whoever contravenes the provisions of section 4 shall, on conviction, be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after first conviction.

Penalty for making or recovering trade allowance other than an allowance prescribed by rules or bye-laws made under this Act.

21. Whoever, in contravention of the provisions of section 17, makes or recovers any trade allowance other than an allowance prescribed by rules or bye-laws made under this Act shall, on conviction, be punishable with fine which may extend to Rs. 200.

Bar of suit in absence of notice.

22. (*1*) No suit shall be instituted against any market committee or any member, officer or servant thereof or any person acting under the direction of any such market committee member, officer or servant for anything done or purporting to be done, in good faith as such member, officer or servant under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a market committee, delivered or left at its office, and in the case of any such member, officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been so delivered or left.

(*2*) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.

(*3*) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877. I of 1877

Trial of offences.

23. (*1*) No offence under this Act, or any rule or bye-law thereunder shall be tried by a Court other than that of a Presidency Magistrate or a Magistrate of the First Class or a Magistrate of the Second Class specially empowered in this behalf.

(2) Prosecutions under this Act may be instituted by any person duly authorised in writing by the market committee in this behalf.

24. Every sum due from a market committee to the Provincial Government shall be recoverable as an arrear of land revenue. Recovery of sums due to Government from market committee.

25. The Provincial Government may delegate to any officer any of the powers conferred on it by a or under this Act. Power of the Provincial Government to delegate its powers.

26. (1) The Provincial Government may, either generally or specially for any market area or market areas, make rules for the purposes of carrying out the provisions of this Act. Rules.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for or regulate :—

(a) the election and nomination of members of the market committee, the manner of election, the preparation and revision of lists of voters from time to time and the payment of all expenditure in connection with or incidental to such election ;

(b) the powers to be exercised [1][and the duties to be performed] by the market committee ;

(c) the election of the chairman [1][and the vice-chairmen] of the market committee and [2][this] term of office ;

(d) the filling of casual vacancies in the office of chairman, [3][vice-chairman] or member of the market committee ;

[4][(e) the management of the market, maximum fees which may be levied by the market committee in respect of agricultural produce bought and sold by persons holding a licence under the Act in the market area ;]

(f) the issue of licenses to [5][traders, commission agents, brokers, weighmen, measurers, surveyors, warehousemen and other persons operating in the market] the form in which, and the conditions subject to which such licenses shall be issued or renewed [6]* * * * * * and the fees to be charged therefor ;

(g) the kind and description of the weights and measures and the weighing and measuring istruments which alone shall be used in transactions in the agricultural produce in a market area ;

(h) the periodical inspection of all weights and measures and weighing and measuring instruments in use in a market area ;

(i) the manner of control and supervision to be exercised by the market committee over inspectors appointed under section 19 of the Bombay Weights and Measures Act, 1932 ;

Bom. XV of 1932.

(j) the time within which an appeal shall lie to the Provincial Government or the Officer appointed by it in that behalf under sub-section (2) of section 12 ;

(k) the trade allowance which may be made or received by any person in any transaction in the agricultural produce in a market area ;

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[1] These words were inserted by Bom. 57 of 1948, s. 5.
[2] This word was substituted for the word "his", *ibid.*
[3] This word was inserted, *ibid.*
[4] This clause was substituted for the original, *ibid.*
[5] These words were substituted for "brokers, weighmen, measurers and surveyors, *ibid.*
[6] These words and the conditions subject to which the licensees shall carry on their business were deleted, *ibid.*

(*l*) the provision of facilities for the settlement of any dispute between a buyer and seller of agricultural produce or their agents including disputes regarding the quality or weight of the article, the allowances for wrappings, containers, dirt or impurities or deductions from any cause;

(*m*) the prohibition of brokers from acting in any transaction on behalf of both the buyer and seller of agricultural produce or as a buyer or seller;

(*n*) the provision of accommodation for storing any agricultural produce brought into the market;

(*o*) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee, and the grant of sanction to such plans and esimates;

(*p*) the form in which the accounts of a market committee shall be kept, the audit and publication of such accounts and the charges, if any, to be made for such audit;

(*q*) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by a market committee;

(*r*) the investment and disposal of the surplus funds of a market committee;

(*s*) the regulation of advances, if any, given to agriculturists by brokers [1][commission agents or traders]

(*t*) the prevention of adulteration of the agricultural produce;

(*u*) the grading and standardisation of the agricultural produce;

(*v*) the keeping of a list of prices of agricultural produce in respect of which the market is established;

[2][(*w*) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in any market;

(*x*) the recovery and disposal of fees leviable by or under the Act.]

(*3*) Any rule made under this Act may provide that any contravention thereof or of any of the conditions of any license issued or renewed thereunder shall, on conviction, be punishable with fine which may extend to Rs. 200.

(*4*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*5*) Rules made under this section shall be laid before each of the Chambers of the Provincial Legislature at the session thereof next following and shall be liable to be modified or rescinded by a resolution in which both Chambers concur and such rules shall, after notification in the Official Gazette, be deemed to have been modified or rescinded accordingly:

Provided that when, in the opinion of the Provincial Government, such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the Provincial Government may, by notification in the Official Gazette, declare that the modification or rescision shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

[1] These words were substituted for the words "or dalals" by Bom. 57 of 1948, s. 5.
[2] These clauses were inserted, *ibid.*

27. (*1*) Subject to any rules made by the Provincial Government under section 26 and with the previous sanction of the Director or any other officer specially empowdered in this behalf by the Provincial Government, the market committee may in respect of the market area under its management make bye-laws for the regulation of the business and the conditions of trading therein. Bye-laws.

(*2*) Any bye-law made under this section may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to Rs. 50.

28. The Provincial Government may at any time call for and examine the proceedings of any market committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the market committees under the rules. If in any case, it appears to the Provincial Government that any decision or order or proceedings so called for should be modified, annulled or reversed, the Provincial Government may pass such order theron as it thinks fit. Power of Provincial Government to call for Proceedings of market committee and to pass orders thereon.

29. The Provincial Government may, by notification in the Official Gazette add to, amend or cancel any of the items of agricultural produce specified in the schedule. Power of Provincial Government to amend the schedule.

[1][**29A.** Notwithstanding anything contained in this Act, all reports submitted under sub-section (*3*) of section 4 and sanctions given to bye-laws under sub-section (*1*) of sect on 27 and all things done by or on behalf of the Director of Agricultural Marketing and Rural Finance for the Province of Bombay purporting to act in exercise of the powers as the Director before the date on which the Bombay Agricultural Produce Markets (Amendment) Act, 1948, came into force, shall be deemed to be and always to have been validly submitted, given or done, as the case may be, as required by under this Act and shall not be deemed to be invalid or called in question merely on the ground that such report was submitted or sanction was given or thing was done by or on behalf of the said Director of Agricultural Marketing and Rural Finance before the said date.] Validation of acts of Directors.

Bom. LVII of 1948.

30. Nothing contained in the Market and Fairs Act, 1862, or in any law for the time being in force relating to the establishment, maintenance or regulation of a market shall apply to any market area or affect in any way the powers of a market committee or the rights of a holder of a license granted under sub-section (*2*) of section 4 to set up, establish or continue or to allow to be set up, established or continued, any place for the purchase or sale of any agricultural produce notified under sub-section (*1*) of section 4 in such area. Savings.

Bom. IV of 1862.

31. The Bombay Cotton Markets Act, 1927, is hereby repealed : Repeal of Bom. XVII of 1927.

Provided that, notwithstanding anything contained in section 6, any local area declared to be a cotton market under section 4 of the Bombay Cotton Markets Act, 1927, shall be deemed to be a market area under this Act and the market committee constituted for the said market under section 5 of the said Act and holding office immediately prior to the date on which this Act comes into force shall be deemed to be the market committee under this Act for the said market area. All the members of such committee shall be deemed to be members nominated by the Provincial Government under sub-section (*2*) of section 6.

Bom. XVII of 1927.

[1] This section was inserted by Bom. 57 of 1948, s. 6.

SCHEDULE.

[*See* SECTION 2 (*1*) (*i*)]

I. *Fibres*—
(1) Cotton (ginned and unginned).
[1][(2) Sanhemp.]

II. *Cereals*—
(1) Wheat.
(2) Paddy (husked and unhusked).
(3) Jowar.
(4) Bajri.
(5) Nagli.
(6) Vari.
(7) Kodra.
(8) Maize.
[1][(9) Sarsav.]
[2][(10) Bavto.]
[3][(11) Barley.]

III. *Pulses*—
(1) Tur.
(2) Gram.
(3) Udid.
(4) Mung.
(5) Val.
[4][(6) Chola.
(7) Lang.
(8) Math.]

IV. *Oilseeds*—
(1) Groundnut (shelled and unshelled).
(2) Linseed.
(3) Sesamum.
(4) Safflower.
(5) Ambadi.
(6) Cocoanut.
(7) Cotton seed.
(8) Castor seed.

V. *Narcotics*—
(1) Tobacco.

[5][VI. *Gul, sugar and sugarcane.*]

VII. *Fruits*—
(1) Mango.
(2) Mosambi.
(3) Santra.

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[1] This entry was added by G. N., R. D., No. 7590/45, dated the 16th March 1948.
[2] This entry was added by G. N., R. D., No. 7905/45(*a*), dated the 13th May 1948.
[3] This entry was added by G. N., R. D., No. 7171/45, dated the 6th August 1948.
[4] These entries were added by G. N., R. D., No. 7590/45, dated the 16th March 1948.
[5] This item was substituted for the original by G. N., R. D., No. 991/33, dated the 5th April 1941.

(4) Lemon.
(5) Banana.
(6) Grapes.
(7) Pomegranate.
(8) Fig.
(9) Chickoo.
(10) Strawberry.
(11) Melons.

VIII. *Vegetables*—

(1) Potato.
(2) Onion.
(3) Tomato.
(4) Suran.
(5) Leafy and fresh vegetables.
[1][(6) Yam.
(7) Sweet potatoes.]

IX. *Animal Husbandry Products*-

(1) Eggs.
(2) Poultry.
(3) Cattle.
(4) Sheep.
(5) Goat.
(6) Wool.
(7) Butter.
(8) Ghee.
(9) Milk.

X. *Condiments, spices and others*-

(1) Turmeric.
(2) Ginger.
(3) Garlic.
(4) Corriander.
(5) Chillies.
(6) Cardamom and pepper.
(7) Variali.
(8) Betelnuts.
(9) Betel leaves.
(10) Cashewnuts.
[2][(11) Cummin (Jiru).
(12) Rai.
(13) Methi.

XI. *Grass and fodder.*

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[1] These entries were added by G. N., R. D., No. 7590/45, dated the 16th March 1948.
[2] These entries were added by G. N., R. D., No. 7905/45(*a*), dated the 13th May 1948.

THE BOMBAY FODDER AND GRAIN CONTROL ACT, 1939.

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BOMBAY ACT No. XXVI OF 1939.[1]

[THE BOMBAY FODDER AND GRAIN CONTROL ACT, 1939.]

[*12th December 1939.*]

Amended by Bom. 17 of 1941.*

An Act to provide for the control and regulation of supply and distribution of fodder and grain including regulation of prices thereof in the Province of Bombay on occasions of famine or scarcity.

WHEREAS it is expedient to provide for the control and regulation of supply and distribution of fodder and grain including regulation of prices thereof in the Province of Bombay on occasions of famine or scarcity; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Fodder and Grain Control Act, 1939.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) It shall come into force with effect from such date as the Provincial Government may by notification in the Official Gazette appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Famine area" means any area declared to be famine area under section 3;

(*2*) "Scarcity area" means any area declared to be a scarcity area under section 3;

(*3*) "Standard price" means the maximum price fixed for sale of fodder or grain under section 3.

Power to declare famine and scarcity areas and to fix standard prices.

3. (*1*) The Provincial Government may, from time to time, by notification in the Official Gazette, declare that a state of famine or scarcity prevails in any local area in the Province; and thereupon the said area shall be deemed to be a famine area or a scarcity area, as the case may be, for the purposes of this Act for such period as the Provincial Government may direct

(*2*) On a declaration being made under sub-section (*1*), the Provincial Government may also by like notification declare that all contracts for the sale of fodder or grain of any kind entered into on or after the date specified in the notification shall be subject to the provisions of this Act.

(*3*) The Provincial Government may, by notification in the Official Gazette, fix a standard price for the sale of fodder or grain in any famine area or scarcity area or in such other area as may be specified in the notification.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 445 or Bombay Legislative Assembly Debates, 1939, Vol. 7, p. 2342 or Bombay Legislative Council Debates, 1939, Vol. 8, p. 484.

For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 7 pp. 826–33, 864–94 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 8, pp. 315–22.

* This Act was re-enacted by Bom. 11 of 1948, s. 2.

Sum in excess of the standard price not to be recovered.

4. (*1*) No person shall recover on account of sale of fodder or grain of any kind in any area for which a standard price has been fixed under sub-section (*3*) of section 3 any sum in excess of the standard price.

Vendor to give receipt to purchaser.

(*2*) Every vendor of grain or fodder or any person acting on his behalf selling fodder or grain in any area referred to in sub-section (*1*) shall give to the purchaser a receipt showing the sum received as the consideration for the sale, the quantity and the quality of fodder or grain sold.

Prohibition against removal of fodder or grain from any local area.

5. (*1*) After the Provincial Government has made a declaration under sub-section (*1*) of section 3 that a state of famine or scarcity prevails in any local area and during the period for which such delaration is in force, the Provincial Government may, at any time, on being satisfied that it is necessary for the relief of poor persons or for the protection of agriculture or for the preservation of public health in such famine area or scarcity area that the removal of fodder or grain of any kind from such famine area or scarcity area or from any other local area should be restricted, direct, by notification in the Official Gazette, that no person shall remove from the local area mentioned in the notification such fodder or grain without permission in writing of the Collector or such other officer as may be authorised by him in this behalf.

(*2*) On such direction being issued no person shall remove [1][or attempt to remove] from the local area mentioned in the notification any such fodder or grain [2][without obtaining permission in the manner provided in sub-section (*1*) for the removal of such fodder or grain.]

Sums in excess of standard price not to be recoverable.

6. (*1*) Any sum agreed to be paid as consideration for the sale of fodder or grain of any kind in excess of the standard price shall be irrecoverable.

(*2*) If any such sum has been paid, it shall be recoverable by the person paying the same from the person to whom it was paid.

Penalty for contravention of section 4 or 5.

7. Whoever contravenes any of the provisions of section 4 or 5 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 1,000 or with both.

Rules.

8. The Provincial Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act.

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[1] These words were inserted by Bom. 17 of 1941, s. 2, read with Bom. 11 of 1948, s. 2.

[2] These words were substituted for "without permission in the manner provided in sub-section (*1*)", *ibid*.

*BOMBAY ACT No. II OF 1942.[1]

[THE LOCAL AUTHORITIES LOANS (BOMBAY AMENDMENT) ACT, 1942.]

[*17th February 1942.*]

An Act to amend the Local Authorities Loans Act, 1914,[2] in its application to the Province of Bombay.

IX of 1914. WHEREAS it is expedient to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Local Authorities Loans (Bombay Amendment) Act, 1942. Short title.

2. After clause (*b*) of the proviso to section 7 of the Local Authorities Loans Act, 1914, in its application to the Province of Bombay, the following shall be inserted, namely:— Amendment of section 7 of Act IX of 1914.

IX of 1914.

"or

(*c*) to preclude any district local board established under section 4 of the Bombay Local Boards Act, 1923, from receiving an advance from the Government of Bombay equivalent to the amount of the cess, levied under sub-section (*1*) of section 93 of the said Act, which has not been collected or the collection of which has been suspended under sub-section (*2*) of the said section 93."

Bom. VI of 1923.

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[1] For the Statement, *see Bombay Government Gazette*, 1942, Part IV, p. 25.

[2] Central Acts, Vol. VI.

*This Act was repealed and re-enacted by Bom. 50 of 1947, s. 2.

THE BOMBAY LAND IMPROVEMENT SCHEMES ACT, 1942.

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†BOMBAY ACT No. XXVIII OF 1942.[1]

[THE BOMBAY LAND IMPROVEMENT SCHEMES ACT, 1942.]

[*25th January 1943.*]

† Amended by Bom. 3 of 1944.
† " " " 7 of 1945.[2]
" " " 73 of 1948.

An Act to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province.

WHEREAS it is expedient to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Bombay Land Improvement Schemes Act, 1942. Short title, extent and commencement.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) It shall come into force in such area and on such date as the Provincial Government may, by notification in the Official Gazette, direct.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Board" means a Board constituted under section 3.

[3][(*2*) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture and includes any officer appointed by the Provincial Government to perform the duties of the Director of Agriculture under this Act.

(*2A*) "Divisional Soil Conservation Officer" means the officer appointed for the time being to be the Divisional Soil Conservation Officer.

† These Acts were repealed and re-enacted by Bom. 29 of 1948, s. 2.
[1] For the Statement, see *Bombay Government Gazette*, 1943, Part IV, page 44.
[2] For retrospective operation of this Act, see sec. 22, Bom. 7 of 1945.
[3] Clauses (*2*), (*2A*), and (*2B*) were substituted for clause (*2*) by Bom. 73 of 1948, s. 2.

(*2B*) "District Agricultural Officers" means the officer appointed for the time being to be the District Agricultural Officer.]

[1][(*2C*) "Executing Officer" means an officer appointed by the Board under sub-section (*1*) of section 11].

(*3*) "Inquiry Officer" means an officer appointed as such by the Board.

(*4*) "owner" includes an owner in severalty, in common or joint, an occupant as defined in the Bombay Land Revenue Code, 1879, a privileged occupant as defined in the Khoti Settlement Act, 1880, [2][a tenant] and a mortgagee in possession [4][and the expressions 'owing' and 'own' shall be construed accordingly.] Bom. V of 1879. Bom. of 1880.

(*5*) "prescribed" means prescribed by rules made under this Act.

(*6*) [3]["Land Improvement Officer"] means an officer appointed as such by the Provincial Government.

(*7*) "scheme" means land improvement scheme prepared under this Act.

[4][(*7A*) "Soil Conservation Officer" means the officer appointed for the time being to be the Soil Conservation Officer.

(*7B*) "Tenant" means an agriculturist who holds land on lease and includes a person lawfully cultivating any land belonging to another person if such land is not cultivated personally by the owner and if such person is not—

(*a*) a member of the owner's family, or

(*b*) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family.

Explanation.—A person shall not be deemed to be a tenant under this Act if such person has been on an application made by the owner of the land as provided under section 2A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a tenant.] Bom. XXIX of 1939.

(*8*) The words and expressions used in this Act, but not defined, shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879. Bom. V of 1879

CHAPTER II.

Constitution of Boards and Preparation of Land Improvement Schemes.

Constitution of Boards.

3. [5](*1*) The Provincial Government shall constitute in each district a Board consisting of the Collector, the District Agricultural Officer, the Divisional Soil Conservation Officer and such non-official persons not exceeding two as may be appointed by the Provincial Government.

(*1A*) The Divisional Soil Conservation Officer shall be the Secretary of the Board.]

(*2*) If there is a difference of opinion among the members of the Board regarding any question under the provisions of this Act the decision of the majority of the members shall prevail.

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[1] Clause (*2A*) which was renumbered as clause (*2C*) by Bom. 73 of 1948, s. 2 (*6*), was inserted by Bom. 7 of 1945, s. 2 (*a*), read with Bom. 29 of 1948, s. 2.

[2] These words were substituted for the original by Bom. 73 of 1948, s. 2.

[3] These words were substituted for the original by Bom. 7 of 1945, s. 2 (*b*), read with Bom. 29 of 1948 s. 2.

[4] Clauses (7A) and (7B) were inserted by Bom. 73 of 1948, s. 2.

[5] Sub-sections (*1*) and (*1A*) were substituted for sub-section (*1*), *ibid.*, s. 3.

4. (*1*) The Board may direct the preparation of a land improvement scheme of any area within its jurisdiction. A scheme may make provision for any of the following matters, namely :— Power of Board to direct preparation of land improvement scheme and matters for which scheme may be prepared.

(*i*) preservation and improvement of soil ;
(*ii*) prevention of erosion of soil ;
(*iii*) improvement of water supply ;
(*iv*) introduction of dry farming methods ;
(*v*) improvement in the methods of cultivation ;
(*vi*) reclamation of waterlogged land or of land from the sea ;
(*vii*) prohibition or control of grazing ;
(*viii*) control and maintenance of tree growth ;
[1][(*viiia*) regulation or prohibition of firing of vegetation ;]
[2][(*viiib*) Cultivation of waste or fallow land ;]
(*ix*) such other matters not inconsistent with the objects of this Act as may be prescribed.

[3][(*2*) On such direction being issued by the Board, the Board shall appoint an officer to prepare, in accordance with such instructions as it may issue, a draft scheme containing the following particulars, namely :—

(*i*) the objects of the scheme ;
(*ii*) the approximate area of the lands to be included in the scheme ;
(*iii*) the work or kind of work to be carried out under the scheme ;
(*iv*) the agency or agencies through which the work shall be carried out ;
(*v*) such other particulars as may be prescribed.]

[4][**5.** (*1*) The draft scheme prepared under section 4 shall be submitted to the Board which shall either approve the scheme with or without modifications and appoint an Inquiry Officer, or reject it. Publication of scheme and inviting objections.

(*2*) The scheme approved by the Board under sub-section (*1*) shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate.

(*3*) The Board shall, [5][simultaneously with the publication of the scheme in the *Official Gazette* under sub-section (*2*)] require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to the Inquiry Officer or appear before him, within twenty-one days of [6][such publication.]

6. (*1*) The Inquiry Officer shall hear such objections as are made to him in person, consider all objections duly submitted under section 5 and submit his report together with the objections to the Board. Report of Inquiry Officer.

(*2*) The Inquiry Officer may, while submitting his report under sub-section (*1*), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme approved by the Board under sub-section (*1*) of section 5.]

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[1] Clause (*viii-a*) was inserted by Bom. 7 of 1945, s. 4(*i*) read with Bom. 29 of 1948, s. 2.
[2] This clause was inserted by Bom. 73 of 1948, s. 4.
[3] Sub-section (*2*) was substituted, by Bom. 7 of 1945, 34 (*iii*) read with Bom. 29 of 1948, s.2.
[4] Sections 5 and 6 were substituted for the original sections, *ibid.*, s. 5.
[5] These words, brackets and figures were substituted for " on publication of the Scheme " by Bom. 73 of 1948, s. 5(*a*).
[6] These words were substituted for " the publication of the Scheme ' in the *Official Gazette* under sub-section (*2*) " by Bom. 73 of 1948, s. 5 (*b*).

7. [*Decision of disputed claims.*] *Rep. by Bom. 7 of 1945, s. 6, read with Bom. 29 of 1948, s. 52.*

8. [*Report of Inquiry Officer.*] *Rep. by Bom. 7 of 1945, s. 6, read with Bom. 29 of 1948, s. 2.*

Power of Board to sanction scheme with or without modifications.

[1][9. (*1*) After consideration of the objections and the report submitted under sub-section (*1*) of section 6 and of any further report which the Board may require the Inquiry Officer to submit, the Board may sanction the scheme with or without modifications or reject it:

Provided that if not less than 33 per cent. of the total number of the owners of the land included in the scheme other than the Crown, or owners other than the Crown owning in the aggregate not less than 33 per cent. of the land included in the scheme have made objections to the scheme or part thereof, the Board shall submit the scheme to the Provincial Government for its orders,. The Provncial Government may thereupon sanction the scheme with or without modifications or reject it.

(*2*) The scheme as sanctioned under sub-section (*1*) shall be published in the *Official Gazette*, and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate and shall on such publication be final.]

Effect of scheme.

10. On the date on which the scheme is published in the *Offical Gazette* under sub-section [2][(*2*)] of section 9, it shall come into force and shall have effect as if it were enacted in this Act.

Power of Provincial Government or of Board to make regulations.

[3][10A. For the purpose of carrying out the objects of a scheme which has come into force under section 10, [4][the Provincial Government or] the Board may make regulations requiring any person or [5][* *] persons or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.]

CHAPTER III.

EXECUTION OF THE SCHEME.

Power to enforce scheme.

[6][11. (*1*) After a scheme has come into force under section 10, the Board shall appoint an officer to execute it.

(*2*) Every owner of land included in the scheme shall pay the costs or part costs, as the case may be, of the works which under the scheme are carried out by the Crown in his land at the cost or part cost of the owner.

(*3*) If any owner of the land included in the scheme desires to carry out himself any works which under the scheme are to be carried out in his land by the Crown at the cost or part cost of the owner, he shall give notice in writing to that effect to the Executing Officer within twenty-one days of the publication of the scheme in the *Official Gazette* under section 9.

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[1] This section was substituted for the original by Bom. 7 of 1945, s. 7 read with Bom. 29 of 1948, s. 2.

[2] The brackets and figure "(*2*)" were substituted for the brackets and figure "(*3*)" *ibid.*, s. 8.

[3] This section was inserted by Bom. 3 of 1944, s. 2, read with Bom. 29 of 1948, s. 2.

[4] These words were inserted by Bom. 7 of 1945, s. 9 read with Bom. 29 of 1948, s. 2.

[5] The words "class of" were deleted by Bom. 73 of 1948, s. 6.

[6] This section was substituted for the original by Bom. 7 of 1945, s 10, read with Bom. 29 of 1948, s. 2.

(*4*) On receipt of such notice, the Executing Officer shall inform the owner of the works which are to be carried out in his land, and shall fix the date before which the owner shall carry out the works.

(*5*) If such owner fails to carry out any work to the satisfaction of the Executing Officer before the date fixed by him or at any time expresses in writing to the Executing Officer his inability to do so, the Executing Officer may himself get the work carried out and the expenses incurred by the Executing Officer for the purpose shall be recovered from the owner.

(*6*) Where the owner of any land included in the scheme is the Crown, the Department of Government which has the control or management of such land, or the Executing Officer directed in this behalf by the Board or the Provincial Government, as the case may be, shall carry out the works which the Crown is liable to carry out under the scheme.]

Liability of persons whose lands are not included in scheme to contribution.

12. (*1*) If, in consequence of any work carried out [1]* * * * under the scheme [2][any person, including the Crown, other than the owner of the land in which the work is done,] is likely to be benefited, he shall pay such amount [3][as the Provincial Government may determine as contribution to the owner of the land, if the work has been carried out by the owner, or to the Provincial Government, if the work has been carried out by the Executing Officer]:

Provided that the Provincial Government may excuse payment of such contribution in whole or in part in respect of any work carried out by it [4][in land belonging to the Crown].

[5][(*2*) The amount shall be paid within such time as may be specified by the Provincial Government.]

Penalty.

[6][**12A.** Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 10, or any of the regulations made under section 10A, or does any act which causes damage to any of the works carried out under the scheme, or fails to fulfil any liability imposed upon him under section 13 or sub-section [7][(*4*)] of section 25 shall, on conviction, be punishable with fine which may extend to fifty rupees or with simple imprisonment for a period which may extend to one month, or with both.]

CHAPTER IV.

MAINTENANCE, REPAIR AND USE OF WORKS CARRIED OUT UNDER THE SCHEME.

Statement.

[8][**13.** (*1*) The Executing Officer shall prepare a statement giving for any specified area the following particulars—

(*a*) (*i*) the work done;

(*ii*) the cost thereof;

(*iii*) the total amount to be recovered from the owners;

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[1] The words "by the owner of any land" were deleted by Bom. 7 of 1945, s. 11 (*i*), read with Bom. 29 of 1948, s. 2.

[2] These words were substituted for the words "any other person, including the Crown", *ibid.*, s. 11 (*ii*).

[3] These words were substituted for the words "to the owner of the land as contribution as the Board may determine" by Bom. 73 of 1948, s. 7 (*a*).

[4] These words were inserted by Bom. 7 of 1945, s. 11 (*iv*), read with Bom. 29 of 1948, s. 2.

[5] This sub-section was substituted for the original by Bom. 73 of 1948, s. 7 (*b*).

[6] This section was inserted by Bom. 3 of 1944, s. 3, read with Bom. 29 of 1948, s. 2.

[7] The brackets and figure "(*4*)" were substituted for the brackets and figure "(*5*)" by Bom. 7 of 1945, s. 12, read with Bom. 29 of 1948, s 2.

[8] This section was substituted for the original, *ibid.*, s. 13.

(*iv*) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owners ;

(*v*) the period within which such amount is to be recovered ;

[1][(*vi*) the work which, in his opinion, shall be maintained and repaired individually or jointly and the names of such person or persons ;]

(*b*) If in the case of any survey number or sub-division of a survey number the owner is not liable to maintain or repair works therein, or if the cost is to be recovered from an owner at a rate other than the general rate, a list of such survey numbers or sub-divisions, and the rate at which the cost is to be recovered from the owner of such survey numbers or sub-divisions ;

(*c*) a map showing the work carried out in the village ;

(*d*) such other matters as may be prescribed.

(*2*) When the statement is prepared under this section any rights and liabilities shown therein shall be entered in the record of rights maintained under Chapter X-A of the Bombay Land Revenue Code, 1879, and in the village accounts in such manner as the Provincial Government may prescribe and shall thereupon form part of such record of rights and of the village accounts.] Bom. V of 1879.

Obligation of persons to maintain and repair works.

[2][14. (*1*) Every person shown in the statement prepared under section 13 as liable to maintain and repair work shall, to the satisfaction of the Land Improvement Officer and within such time as the said officer may fix, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement.

(*2*) If such person fails to maintain or repair the work within the time fixed by the Land Improvement Officer under sub-section (*1*), the Land Improvement Officer shall himself get the work maintained or repaired and the cost of so doing shall be recovered from the person.]

[3][(*3*) If the Land Improvement Officer is of opinion that an emergency has arisen and that the immediate repair of any work referred to in sub-section (*1*) is necessary in the general interest, he shall carry out such repair and the cost of such repair shall be paid by the owner of the land on which the repair has been carried out.

(*4*) The Land Improvement Officer shall, as soon as practicable, make report to the Provincial Government regarding such repair.]

CHAPTER V.

MISCELLANEOUS.

Payment and recovery of amount.

[4][15. Any amount or instalment thereof payable under section 11, 12, 14 or 25A which is not paid on the date when it becomes due under this Act shall be deemed to be an arrear of land revenue due on account of the land for the benefit of which the scheme has been sanctioned under this Act or the work is or repairs are carried out and shall be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879.] Bom. V of 1879.

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[1] This clause was substituted for the original by Bom. 73 of 1948, s. 8.

[2] This section was substituted for the original by Bom. 7 of 1945, s. 14, read with Bom. 29 of 1948, s. 2.

[3] These sub-sections were added by Bom. 73 of 1948, s. 9.

[4] This section was substituted for the original, *ibid.*, s. 10.

16. For the purpose of preparing, sanctioning or executing any scheme [1][or repairing or maintaining any works under any scheme], any person authorised by [2][the Board, the Collector or the Land Improvement Officer] may, after giving such notice as may be prescribed, to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land, and do all acts necessary for such purpose. Right of entry.

17. (*1*) Any authority other than a Board empowered under this Act to make an inquiry shall make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of a summary inquiry shall, so far as may be, apply. Inquiries to be held summarily.

Bom. V of 1879.

(*2*) Such authority as well as a Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879.

Bom V of 1879

18. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the owner of any land included in a scheme to enhance the rent payable by a tenant of the land by such amount and subject to such conditions as may be prescribed. Permission to owners to increase rent on account of improvements effected.

XVI of 1908.

19. (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan, or map prepared, made or sanctioned in connection with a scheme which has come into force. Registration of document, plan or map in connection with land improvement scheme not required.

(*2*) All such documents, plans and maps shall, for the purpose of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act:

XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

20. [*Delegation of powers by Provincial Government.*] *Rep. by Bom. 7 of 1945, s. 16, read with Bom. 29 of 1948, s. 2.*

[3][**21.** The Provincial Government and subject to the control of the Provincial Government the Collector or the Land Improvement Officer may delegate to any officer any of the powers conferred on it or him or any of the functions to be performed by it or him by or under this Act.] Delegation.

22. The members and Secretary of a Board, the Inquiry Officer and any officer or person authorised or appointed by the Board, the Collector, [4][the Land Improvement Officer] or the Provincial Government under sub-section (*2*) of section 4, sub-section (*1*) of section 11, sub-section (*2*) of section 12, section 16, [5][section 21] or sub-section (*2*) of section 25, as the case may be, shall be deemed to be public servants within the meaning of the Indian Penal Code. Certain officers to be public servants.

XLV of 1860.

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[1] These words were inserted by Bom. 7 of 1945, s. 15 (*i*), read with Bom. 29 of 1948, s. 2.

[2] These words were substituted for the words "the Board or the Collector", *ibid.*, s. 15 (*ii*).

[3] This section was substituted for the original by Bom. 73 of 1948, s. 11.

[4] These words were inserted by Bom. 7 of 1945, s. 18, read with Bom. 29 of 1948, s. 2.

[5] The word and figures "section 21" were inserted, *ibid.*, s 18.

Protection of persons acting in good faith and limitation of suits and prosecutions.

23. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Power to make rules.

24. (*1*) The Provincial Government may, by notification published in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made to determine the following matters, namely :—

[1][(*i*) the matters to be prescribed under clause (*ix*) of sub-section (*1*) and clause (*v*) of sub-section (*2*) of section 4 ;

(*ii*) the matters to be prescribed under clause (*d*) of sub-section (*1*) of section 13 ;

(*iii*) the manner in which the rights and liabilities shown in the statement prepared under section 13 shall be entered in the record of rights maintained under Chapter X-A of the Bombay Land Revenue Code, 1879, and in the village accounts under sub-section (*2*) of section 13 ; Bom. V of 1879.

(*iv*) the manner of giving notice under section 16 ;

(*v*) the manner in which documents, plans and maps shall be made accessible to the public under section 19 ;

(*vi*) the number of equated annual instalments payable under sub-section (*2*) of section 25A.]

[2]*

(*3*) The rules made under this section shall be subject to the condition of previous publication.

Power of Provincial Government to direct preparation of scheme in certain circumstances.

25. (*1*) Notwithstanding anything contained in this Act the Provincial Government may direct the preparation of a land improvement scheme providing for any of the matters specified in sub-section (*1*) of section 4 [3][in any case in which the Provincial Government or any trust may contribute not less than 25 per cent. of the cost of the scheme, or] in any area in which the Provincial Government declares that a state of famine or scarcity prevails or in which in the opinion of the Provincial Government a state of famine or scarcity is likely to prevail [4][or land improvement is necessary in the interests of any members of His Majesty's forces, whether in service or retired, or of their dependents].

[5][(*2*) On such direction the person appointed by the Provincial Government or the Board in this behalf shall prepare in accordance with such instructions as the Provincial Government or the Board may issue, a draft scheme containing the particulars specified in sub-section (*2*) of section 4 and submit it to the Provincial Government or the Board, as the case may be, for its approval.

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[1] Clauses (*i*) to (*vi*) were substituted for the original clauses (*i*) to (*viii*) by Bom. 7 of 1945, s. 19, read with Bom. 29 of 1948, s. 2.

[2] Clause (*viii*) inserted by Bom. 3 of 1944, s. 5 (*2*) was repealed by Bom. 7 of 1945, s. 19, read with Bom. 29 of 1948, s. 2.

[3] These words and figures were inserted by Bom. 3 of 1944, s. 6 (*i*) (*a*), read with Bom. 29 of 1948, s. 2.

[4] These words were added, *ibid.*, s. 6 (*1*) (*b*).

[5] Sub-sections (*2*) to (*4*) were substituted for original sub-sections (*2*) to (*5*) by Bom. 7 of 1945, s. 20, read with Bom. 29 of 1948, s. 2.

(*3*) After the scheme is submitted to the Provincial Government or the Board for approval under sub-section (*2*) the provisions of sections 5 to 23 and the rules made under section 24 shall, so far as they can be made applicable, apply in respect of such scheme.

(*4*) Notwithstanding anything contained in sub-section (*3*), the owner of the land in which any work has been carried out for the purposes of a scheme under this section shall be liable, pending the preparation of the statement under section 13 to maintain the work to the satisfaction of the Land Improvement Officer and repair it to his satisfaction within such time as he may fix.

The provisions of sub-section (*2*) of section 14 shall apply in respect of the owner's liability under this sub-section.]

[1]* * * * *

[2][**25A.** [3][(*1*) Notwithstanding anything contained in this Act, the Provincial Government may at any time direct the preparation of a scheme for any of the matters specified in sub-section (*1*) of section 4 in any area, if in the opinion of the Provincial Government such scheme is necessary in the interest of the public :

Provincial Government may carry out works in a scheme and subsequently recover cost from owners of lands.

Provided that if any person or authority is willing to contribute not less than 25 per cent. of the estimated cost of any scheme, the Provincial Government may also direct the preparation of such scheme]

(*2*) The cost directed to be recovered under sub-section (*1*), with interest at such rate as the Provincial Government may direct, shall be recoverable from the owners concerned in such number of equated annual instalments payable on the date appointed for the payment of the first instalment of land revenue as may be prescribed.]

26. The expenditure incurred by the Provincial Government in pursuance of anything done under this Act shall be charged on the revenues of the Province.

Expenditure incurred by Provincial Government to be charged on revenues of Province.

[4][**27.** All Boards constituted for a division under section 3 shall be dissolved on the day on which the new Boards shall be constituted under section 3 as amended by the Bombay Land Improvement Schemes (Amendment) Act, 1948 :

Saving.

Bom. LXXIII of 1948.

Provided that any direction issued, appointments made, scheme sanctioned, regulation made and all things done by the first mentioned Board shall be deemed to to have been lawfully issued, made, sanctioned or done and any scheme so sanctioned shall be executed by the new Board constituted as aforesaid in the district in which the land in respect of which such scheme is made is situate :

Provided further that if such land is situate within the limits of more than one district the Provincial Government shall decide which of the Boards shall execute the scheme in respect thereof.

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[1] Sub-section (*5*) inserted by Bom. 3 of 1944, s. 6 (*ii*) was repealed by Bom. 7 of 1945, s. 20.
[2] This section was inserted, *ibid.*, s. 7.
[3] This sub-section was substituted for the original by Bom. 73 of 1948, s. 12.
[4] Sections 27, 28 and 29 were added *ibid.*, s. 13.

Validation of constitution and acts of Board.

28. Notwithstanding anything contained in this Act, the Board constituted, any directions issued, appointments made, scheme approved, regulations made and all things done by or on behalf of the Board, before the date on which the Bombay Land Improvement Schemes (Amendment) Act, 1948, came into force shall be deemed to be and to have always been validly constituted, issued, made, approved or done and shall not be deemed to have been invalidly constituted, issued, made, approved or done by reason only of the fact that the Agricultural Commissioner or the Director of Agricultural Engineering acted as a member of the Board before the said date. Bom. LXXIII of 1948.

Saving of Khar lands.

29. Nothing in this Act shall apply to Khar lands in respect of which a scheme is or has been sanctioned under the Bombay Khar Lands Act, 1948.] Bom. LXXII of 1948.

THE BOMBAY COTTON CONTROL ACT, 1942.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Power to fix in any area variety of cotton which may be cultivated etc.
3A. Permission to factories to mix standard cotton with any other standard cotton or any prohibited variety of cotton with standard cotton.
4. Penalty.
5. Confiscation.
6. Procedure in confiscation.
7. Compounding.
8. Power of entry and seizure.
9. Duty of owner, occupier and person in charge to give facilities for inspection by authorized officer.
10. Previous sanction and limitation on prosecution.
11. Cognizance of offences.
12. Protection for acts done under this Act.
13. Officer acting under the Act to be public servant.
14. Rules.
15. Repeal.

*BOMBAY ACT No. XXX OF 1942.[1]

[THE BOMBAY COTTON CONTROL ACT, 1942.]

[*2nd March 1943.*]

Amended by Bom. 63 of 1947.

An Act to provide for regulation and prohibition of the cultivation of any variety of cotton, of the mixing of the prohibited variety of cotton with other cotton and of the possession or use of, or trade in, the prohibited variety of cotton in any part of the Province of Bombay.

WHEREAS it is expedient in the best interests of the growers of cotton in certain areas in the Province of Bombay, the cotton trade and the economic prosperity of the said Province to maintain the quality and reputation of the cotton grow in those areas, and for that purpose in such areas, to fix the variety of cotton to be grown, to prohibit the cultivation of any variety of cotton, to prohibit the mixing of the prohibited variety of cotton with any other cotton and to prohibit or restrict the possession or use of, or trade in, the prohibited variety of cotton;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5. Ch, 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Cotton Control Act, 1942.

(*2*) It extens to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "controlled area" means an area specified in a notification under section 3;

(*b*) "cotton" includes cotton plant, ginned and unginned cotton, cotton waste and cotton seed;

(*c*) "Director of Agriculture" means the officer appointed for the time being to be the Director of Agriculture;

(*d*) "prohibited variety of cotton" for any area means the variety of cotton the cultivation of which is prohibited in such area under sub-clause (*ii*) of clause (*a*) of sub-section (*2*) of section 3;

(*e*) "standard cotton" for any area means the variety of cotton the cultivation of which is permitted in such area under sub-clause (*i*) of clause (*a*) of sub-section (*2*) of section 3.

Power to fix in any area variety of cotton which may be cultivated etc.

3. (*1*) (*a*) The Provincial Government may, by notification in the Official Gazette, in respect of any local area specified in the notification, declare its intention of—

(*i*) fixing the variety of cotton the cultivation of which shall be permitted in such area,

(*ii*) prohibiting the cultivation of any other variety of cotton in such area.

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[1] For the Statement, *see Bombay Government Gazette*, 1943, Part IV, pp. 72 and 73.

* This Act was re-enacted by Bom. 63 of 1947, s. 2.

[1][(*iii*) prohibiting in such area the mixing of any standard cotton with any other standard cotton or of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and

(*iv*) prohibiting or restricting in such area the possession or use of, or trade in, any standard cotton mixed with any other standard cotton or the variety of cotton specified in sub-clause (*ii*), whether or not mixed with any standard cotton.]

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

(*c*) Every such notification shall state that any objection or suggestion which may be received by the Provincial Government within the period specified in the notification, which shall be not less than three months from the date of the notification, shall be considered by the Provincial Government.

(*2*) (*a*) After the expiry of the period specified in the notification issued under sub-section (*1*) and after considering such objections and suggestions as may be received by it within such period, the Provincial Government may, by notification in the Official Gazette, in respect of the local area specified in the notification issued under sub-section (*1*) or any part thereof—

(*i*) fix the variety of cotton the cultivation of which is permitted in such area,

(*ii*) prohibit the cultivation of any other variety of cotton in such area,

[1][(*iii*) prohibit in such area the mixing of any standard cotton with any other standard cotton or of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and

(*iv*) prohibit or restrict in such area the possession or use of, or trade in, any standard cotton mixed with any other standard cotton or the variety of cotton specified in sub-clause (*ii*), whether or not mixed with any standard cotton.]

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

Permission to factories to mix standard cotton with any other standard cotton or any prohibited variety of cotton with standard cotton.

[2][**3A.** (*1*) Notwithstanding anything contained in section 3 or any notification issued thereunder, the Provincial Government may, by notification in the *Official Gazette*, permit any standard cotton to be mixed with any other standard cotton or any prohibited variety of cotton to be mixed with any standard cotton in any factory in which cotton is manufactured into yarn or cloth:

Provided that the mixed cotton—

(*a*) is not made into fully pressed bales, and

(*b*) is used in such factory exclusively in the manufacture of yarn or cloth.

(*2*) The owner or person in charge of the factory shall maintain or cause to be maintained a register containing a daily record of cotton other than standard cotton received into and used in the factory. He shall preserve such register for a period of not less than two years from the date of the last entry made therein.

(*3*) The owner or person in charge of the factory shall produce the register maintained under sub-section (*2*) when required to do so by the Director of Agriculture (Extension and Rural Development) or any person appointed by him in this behalf.]

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[1] These clauses were substituted for the original by Bom. 63 of 1947, s. 3.

[2] This section was inserted, *ibid.*, s. 4.

4. [1](*1*) Any person, who in any controlled area, knowingly and in contravention of the provisions of this Act or of any notification issued or rule made thereunder— **Penalty.**

(*a*) cultivates any prohibited variety of cotton shall, on conviction, be punishable with fine which may extend to twenty rupees for the first offence and to fifty rupees for every subsequent offence,

[2][*b*(*i*) mixes or causes to be mixed any standard cotton with any other standard cotton or any prohibited variety of cotton with the standard cotton, or

(*ii*) possesses, uses or trades in, any standard cotton mixed with any other standard cotton or any prohibited variety of cotton, whether mixed with the standard cotton or not,]

shall, on conviction, be punishable with fine which may extend to five hundred rupees for every subsequent rupees for the first offence and to one thousand offence.

[3][(*2*) Any owner or person in charge of a factory who—

(*a*) in contravention of the provisions of sub-section (*1*) of section 3A makes the mixed cotton into fully pressed bales or uses the mixed cotton otherwise than in the manufacture of yarn or cloth in his factory, or

(*b*) fails to comply with any of the provisions of sub-section (*2*) or sub-section (*3*) of section 3A,

shall, on conviction, be punishable with fine which may extend to five hundred rupees for the first offence and to one thousand rupees for every subsequent offence.]

5. Whenever an offence under this Act has been committed, all cotton in respect of which an offence has been committed and every box, receptacle, package or covering in which such cotton is contained shall be liable to confiscation. **Confiscation.**

6. (*1*) When in any case tried by a criminal court, the court decides that anything is liable to confiscation under section 5, it may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation. **Procedure in confiscation.**

(*2*) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the officer authorised by the Provincial Government in this behalf may hold an inquiry and may order confiscation :

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing liable to confiscation or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

7. (*1*) The officer authorised under sub-section (*2*) of section 6 may accept from any person who is reasonably suspected of having committed an offence under section 4, a sum of money as may be prescribed by rules made under section 14 by way of composition for such offence. **Compounding.**

(*2*) On payment of such sum, such person, if in custody, shall be set at liberty and if proceedings in any criminal court have been instituted against such person in respect of such offence, the composition shall be deemed to amount to an acquittal and no further proceedings shall be taken against such person in respect of such offence.

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[1] This section was renumbered as section 4 (*1*) by Bom. 63 of 1947, s. 5.
[2] These sub-clauses were substituted for the original, *ibid.*
[3] This sub-section was added, *ibid.*

(*3*) Notwithstanding anything contained in sub-section (*2*), it shall be lawful for the Court or the officer authorised under sub-section (*2*) of section 6 to order confiscation of anything liable to confiscation under section 5.

Power of entry and seizure.

8. (*1*) Any officer authorised in this behalf by the Provincial Government may between the hours of 6 a.m. and 6 p.m.—

(*a*) enter upon any land in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton has been or is being cultivated in contravention of a notification under section 3, uproot or cause to be uprooted such cotton and seize the cotton so uprooted ; or

(*b*) enter upon or into any land, building, ship, vessel, vehicle or place in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton, whether mixed with the standard cotton or not, is kept in contravention of a notification under section 3, and seize such cotton.

(*2*) Every officer seizing any cotton under this section shall forthwith—

(*a*) make a report of such seizure to the nearest Magistrate of the First or Second Class having jurisdiction to try the offence committed in respect of such cotton specifying in such report the particulars of such cotton and furnish a copy of such particulars to the occupier, or person in charge of the land, building, ship, vessel, vehicle or place on or in which such seizure was made, and

(*b*) subject to rules made under section 14, forward such cotton to the nearest officer authorised by the Provincial Government for examination and for report to the Director of Agriculture.

(*3*) The opinion of the officer authorised under sub-section (*2*) regarding such cotton recorded in any document signed by such officer shall be evidence as to the nature of such cotton in any inquiry, trial or proceeding under this Act.

Duty of owner, occupier and person in charge to give facilities for inspection by authorised officer.

9. (*1*) Every owner, occupier, or person, in charge, of any land, building, ship, vessel, vehicle or place shall give all reasonable facilities to the officer, authorised under sub-section (*1*) of section 8, to inspect such land, building, ship, vessel, vehicle or place.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with fine which may extend to twenty rupees.

Previous sanction and limitation on prosecution.

10. No prosecution under this Act shall be instituted without the previous sanction of the Director of Agriculture.

Cognizance of offences.

11. No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try any offence under this Act.

Protection for acts done under this Act.

12. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Officer acting under the Act to be public servant.

13. Every officer acting or purporting to act in pursuance of the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

14. (*1*) The Provincial Government may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules for all or any of the following purposes, namely :—

(*a*) to prescribe the sum of money to be paid by way of composition under section 7 ;

(*b*) to prescribe the conditions subject to which cotton seized may be forwarded under section 8.

(*3*) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

Bom. XXXV of 1935. **15.** The Bombay Cotton Control Act, 1935, is hereby repealed : Repeal.

Provided that any notification issued under section 3 of the Bombay Cotton Control Act, 1935, shall be deemed to be issued under sub-section (*2*) of section 3 of this Act unless and until superseded by any notification issued under the said sub-section : Bom. XXXV of 1935.

Provided further that any proceeding in respect of any offence under the Bombay Cotton Control Act, 1935, pending at the date of the coming into force of this Act shall be continued and disposed of as if this Act had not been passed. Bom. XXXV of 1935.

THE INDIAN POST OFFICE (BOMBAY AMENDMENT) REGULATION, 1942.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Amendment of section 7 of Act VI of 1898.
3. Repeal of the First Schedule to Act VI of 1898.

BOMBAY REGULATION No. I OF 1942.

[THE INDIAN POST OFFICE (BOMBAY AMENDMENT) REGULATION, 1942.]

[*2nd July 1942.*]

A Regulation to amend the Indian Post Office Act, 1898,[1] in its application to the Partially Excluded Areas in the Province of Bombay.

WHEREAS it is expedient to amend the Indian Post Office Act, 1898, in its application to the Partially Excluded Areas in the Province of Bombay for the purpose hereinafter appearing; (VI of 1898.)

Now, THEREFORE, in exercise of the powers conferred by sub-section (*2*) of section 92 of the Government of India Act, 1935, the Governor of Bombay is pleased to make the following Regulation, namely:— (26 Ge. 5, Ch. 2.)

1. (*1*) This Regulation may be called the Indian Post Office (Bombay Amendment) Regulation, 1942. **Short title and extent.**

(*2*) It extends to all the Partially Excluded Areas in the Province of Bombay.

2. In section 7 of the Indian Post Office Act, 1898, hereinafter called the said Act,— (VI of 1898.) **Amendment of section 7 of Act VI of 1898.**

(*a*) the proviso to sub-section (*1*) shall be deleted; and

(*b*) for sub-section (*2*) the following sub-section shall be substituted, namely:—

"(*2*) Unless and until such notification as aforesaid is issued, the rates chargeable for the time being in the rest of British India shall be the rates chargeable in the Partially Excluded Areas in the Province of Bombay."

3. The First Schedule to the said Act shall be repealed. **Repeal of the First Schedule to Act VI of 1898.**

[1] Central Acts, Vol. IV.

THE BOMBAY INCREASE OF STAMP DUTIES ACT, 1943.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent, commencement and duration.

2. Increase of certain stamp duties.

3. Provisions of principal Act so far as not inconsistent to apply for purposes of this Act.

SCHEDULE.

*BOMBAY ACT No. XIV OF 1943.[1]

[THE BOMBAY INCREASE OF STAMP DUTIES ACT, 1943.]

[*29th December 1943.*]

*Amended by Bom. 19 of 1944.

An Act to provide for increase in certain stamp duties leviable under the Indian Stamp Act, 1899[2], in its application to the Province of Bombay.

II of 1899. WHEREAS it is expendient to provide for increase in certain stamp duties leviable under the Indian Stamp Act, 1899, in its application to the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5 Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act:—

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Bombay Increase of Stamp Duties Act, 1943.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on the 1st day of January 1944 and shall cease to have effect on such date as the Provincial Government may by notification in the *Official Gazette* appoint in this behalf.

Increase of certain stamp duties.

2. Notwithstanding anything contained in the Indian Stamp Act, 1899, in its application to the Province of Bombay (hereinafter called the principal Act) all stamp duties leviable under the principal Act except those leviable in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, proxies and receipts shall be increased by a surcharge at the rates specified in the Schedule annexed hereto.

II of 1899.

Provisions of principal Act so far as not inconsistent to apply for purposes of this Act.

3. The provisions of the principal Act shall, save in so far as they are inconsistent with anything herein contained, apply for the purposes of this Act.

[3]SCHEDULE.

RATES OF SURCHARGE.

Amount of stamp duty.	Rate of surcharge.
(1) A fraction of a rupee not exceeding 1 anna	½ anna.
(2) A fraction of a rupee exceeding 1 anna but not exceeding 2 annas	1 anna.
(3) A fraction of a rupee exceeding 2 annas but not exceeding 4 annas	2 annas.
(4) A fraction of a rupee exceeding 4 annas but not exceeding 8 annas	4 annas.
(5) A fraction of a rupee exceeding 8 annas	6 annas.
(6) A whole rupee	8 annas.

*These Acts were re-enacted by Bom. 12 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1943, Part IV, p. 274.

[2] *See* Central Acts, Vol. IV.

[3] This Schedule was substituted by Bom. 19 of 1944, s. 2, (which came into force from 1st January 1945), read with Bom. 12 of 1948, s. 2.

THE BOMBAY INCREASE OF COURT-FEES ACT, 1943.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent, commencement and duration.

2. Increase of Court-fees.

3. Provisions of principal Act so far as not inconsistent to apply for purposes of this Act.

SCHEDULE.

*BOMBAY ACT No. XV OF 1943.[1]

[THE BOMBAY INCREASE OF COURT-FEES ACT, 1943.]

[*29th December 1943.*]

An Act to provide for an increase in court-fees leviable under the Court-fees Act, 1870[2], in its application to the Province of Bombay.

VII of 1870. WHEREAS it is expedient to provide for an increase in court-fees leviable under the Court-fees Act, 1870, in its application to the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act :—

Short title, extent, commencement and duration.

1. (*1*) This Act be called the Bombay Increase of Court-fees Act, 1943.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on the 1st day of January 1944 and shall cease to have effect on such date as the Provincial Government may by notification in the *Official Gazette* appoint in this behalf.

Increase of Court-fees.

VII of 1870. 2. Notwithstanding anything contained in the Court-fees Act, 1870, in its application to the Province of Bombay (hereinafter called the principal Act), all fees leviable under the principal Act shall be increased by a surcharge at the rates specified in the Schedule annexed hereto.

Provisions of principal Act so far as not inconsistent to apply for purposes of this Act.

3. The provisions of the principal Act shall, save in so far as they are inconsistent with anything herein contained, apply for the purposes of this Act.

SCHEDULE.

RATES OF SURCHARGE.

Amount of Court fee.	Rate of surcharge. Annas.
(1) A fraction of a rupee not exceeding four annas	1
(2) A fraction of a rupee exceeding four annas but not exceeding eight annas	2
(3) A fraction of a rupee exceeding eight annas	3
(4) A whole rupee	4

*The Act was repealed and re-enacted by Bom. 13 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1943, Part IV, p. 276.

[2] Central Acts, Vol. I.

THE INDIAN TARIFF (BOMBAY APPLICATION) REGULATION, 1943.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, application and commencement.

2. Application of Act XXXII of 1934 as amended from time to time, and validation of duty levied and collected.

BOMBAY REGULATION No. I OF 1943.

[THE INDIAN TARIFF (BOMBAY APPLICATION) REGULATION, 1943.]

[*2nd December 1943.*]

A Regulation to validate the levy of certain duties recovered in certain partially excluded areas and to apply the Indian Tariff Act, 1934[1], as amended from time to time to those areas.

XXXII of 1934. WHEREAS the Indian Tariff Act, 1934, is in force in the partially excluded areas in the Dahanu Taluka and the Umbergaon Petha in the Thana District in the Province of Bombay but the subsequent Central Acts amending it were not applied to the said areas under sub-section (*1*) of section 92 of the Government of India Act, 1935;

AND WHEREAS from the 31st March 1937 duties have been levied in those areas in accordance with that Act as from time to time amended by subsequent Central Acts;

AND WHEREAS it is expedient to validate the levy and collection of duties made as aforesaid, and to apply the Indian Tariff Act, 1934, as so amended to the said areas;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (*2*) of section 92 of the Government of India Act, 1935, the Governor of Bombay is pleased to make the following Regulation, namely:— 26 Geo. 5, Ch. 2.

1. (*1*) This Regulation may be called the Indian Tariff (Bombay Application) Regulation, 1943. Short title, application and commencement.

(*2*) It applies to the partially excluded areas in the Dahanu Taluka and the Umbergaon Petha in the Thana District (hereinafter referred to as "the said areas").

(*3*) It shall come into force at once.

XXXII of 1934. **2.** The Indian Tariff Act, 1934, shall be deemed always to have had effect in the said areas subject, at any particular time to the same amendments as it was generally subject to in British India at that time, and all notifications issued under the said Act shall be deemed always to have been operative in the said areas as they have been generally operative in British India; and no duty levied and collected at any time within the said areas shall be deemed to have been invalidly levied and collected by reason only of the fact that at the time of such levy and collection any particular amendment of the said Act had not been applied to the said areas or any notification issued under the said Act was not operative therein. Application of Act XXXII of 1934 as amended from time to time, and validation of duty levied and collected.

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[1] Central Acts, Vol. IX.

THE BOMBAY GROWTH OF FOODCROPS ACT, 1944.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Powers to prescribe maintenance of existing proportion of growing foodcrops.
4. Power to prescribe maximum proportion of non-food-crops and minimum proportion of foodcrops to be grown.
5. Power to prohibit growing of non-food-crops in successive years.
6. Power to rescind or amend orders.

6A. Power of Provincial Government to amend Schedules.

7. Power to exempt.
8. Effect of orders inconsistent with contracts to the contrary.
9. Fixation and guarantee of prices of foodcrops.
10. Reduction of revenue or irrigation dues and rent.

10A. Determination of rent.

11. Penalty.
12. Delegation of powers.
13. Powers to make rules.

SCHEDULE I.

SCHEDULE II.

*BOMBAY ACT No. VIII OF 1944.[1]

[THE BOMBAY GROWTH OF FOODCROPS ACT, 1944.]

[*20th May 1944.*]

†Amended by Bom. 16 of 1944.

An Act to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay.

WHEREAS it is expedient to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay, is pleased to make the following Act:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Growth of Foodcrops Act, 1944.

(*2*) It extends to the whole of the Province of Bombay, but shall come into force in any area thereof only on such date as the Provincial Government may by notification in the Official Gazette appoint in this behalf for that area [2][save as follows, namely, section 10A shall take effect only in such area, and from such date as the Provincial Government may, by like notification, specify in this behalf.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "cultivator" means a person who is actually in possession of agricultural land whether as an occupant, tenant or otherwise, and includes a company and a joint family or a group of persons in joint actual possession;

(*2*) "cultivator's holding" means the aggregate of all lands in the actual possession of a cultivator;

(*3*) "scheduled foodcrop" means a crop specified in Schedule I;

(*4*) "scheduled non-foodcrop" means a crop specified in Schedule II;

(*5*) Words and expressions used in this Act but not defined shall have the same meaning as in the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Powers to prescribe maintenance of existing proportion of growing foodcrops.

3. The Provincial Government may by an order published in the Official Gazette and in such other manner as it may consider expedient direct that in any specified area every cultivator shall grow scheduled foodcrops in such area of his holding in the twelve months immediately following the date of the order as bears to the total area of his holding a proportion not less than that which the area of such crops grown by him in the twelve months previous to the date of the order bore to the total area of his then holding:

Provided that where a cultivator had no holding in the twelve months previous to the date of the order or where information regarding the area of the scheduled foodcrops grown in a cultivator's holding during the said twelve months is not available, the proportion for the purposes of this section shall be deemed to be such as may be fixed in the order.

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* This Act was re-enacted by Bom. 2 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV. p. 125.

[2] These words, figures and letter were added by Bom. 16 of 1944, s. 2, read with Bom. 2 of 1948, s. 2.

Explanation.—Where a scheduled foodcrop, is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the purposes of this section, be deemed to be not more than [1][¼, or such other proportion as may be fixed in this behalf by the Provincial Government either generally or in relation to any particular area or any particular mixed crop by notification published in the *Official Gazette* and in such other manner as it may consider expedient, whichever is greater,] of the total area under such mixed crop.

Power to prescribe maximum proportion of non-foodcrops and minimum proportion of foodcrops to be grown.

4. If the Provincial Government is satisfied that it is necessary in the interests of the Province to increase the production of scheduled foodcrops in any local area, it may by an order published in the Official Gazette and in such other manner as it may consider expedient—

(*a*) prescribe the minimum proportion of the cultivator's holding in which scheduled foodcrops shall be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order;

(*b*) prescribe the proportion in excess of which scheduled non foodcrops shall not be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order.

Explanation.—Where a scheduled foodcrops is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the purposes of this section, be deemed to be not more than [1][¼, such other proportion as may be fixed in this behalf by the Provincial Government either generally or in relation to any particular area or any particular mixed crop by notification published in the *Official Gazette* and in such other manner as it may consider expedient, whichever is greater,] of the total area under such mixed crop.

Power to prohibit growing of non-foodcrops in successive years.

5. The Provincial Government may by an order published in the Official Gazette and in such other manner as it may consider expedient direct that in any area specified in the order scheduled non-foodcrops shall not be grown after the date of the order in that part of a cultivator's holding in which they were grown in the previous twelve months.

Power to rescind or amend orders.

6. The Provincial Government may add to, amend, vary or rescind any order issued under sections 3, 4 or 5 if in its opinion the circumstances of a season or any other reasons make this desirable.

Power of Provincial Government to amend Schedules.

[2][**6A.** The Provincial Government may, by notification in the *Official Gazette*, direct additions to or omissions from the list of crops specified in Schedule I or Schedule II either generally or with reference to any particular area specified in any such notification, and the Schedule shall on the issue of the notification be deemed to be amended accordingly.]

Power to exempt.

7. The Provincial Government may wholly or partially exempt any cultivator's holding or class of such holdings from any or all the provisions of this Act or any order made thereunder.

Effect of orders inconsistent with contracts to the contrary.

8. An order issued under section 3, 4, 5 or 6 shall have effect notwithstanding any contract to the contrary between the cultivator and any other person interested in the agricultural land affected by such order.

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[1] These figures and words were substituted for the figures "¼" by Bom. 16 of 1944, s. 3, read with Bom. 2 of 1948, s. 2.

[2] This section was inserted by Bom. 16 of 1944, s. 4, read with Bom. 2 of 1948, s. 2.

9. The Provincial Government shall, by an order published in the Official Gazette and in such other manner as it may consider expedient, fix and guarantee prices for all cereal foodcrops grown in any cultivator's holding in each of the areas in respect of which an order under section 3 or 4 is issued. Fixation and guarantee of prices of foodcrops.

10. (*1*) The Provincial Government may remit any part of land revenue or irrigation dues if in its opinion it is necessary to do so in respect of any area to which an order under section 4 applies. Reduction of revenue or irrigation dues and rent.

(*2*) Whenever remission is granted in any area under sub-section (*1*), rents payable by a cultivator to his superior holder in such area shall be adjusted in accordance with section 84A of the Bombay Land Revenue, Code, 1879. Bom. V. of 1879.

[1][**10A.** (*1*) In the areas where this section takes effect under the provisions of sub-section (*2*) of section 1, it shall be lawful for a tenant who is compelled to grow scheduled foodcrops on any land by the operation of an order under section 4 to apply in writing to the Mamlatdar within whose jurisdiction the land is situated for determination of the rent to be paid by him in respect of the land; and thereupon notwithstanding anything contained in any law for the time being in force (including the Bombay Small Holders Relief Act, 1938, the Bombay Tenancy Act, 1939, and the Bombay Land Improvements Schemes Act, 1942) or any usage or agreement or decree or order of a Court of law, the rent payable by the tenant in respect of the land on which scheduled foodcrops are compulsorily grown shall be the rent determined under this section. The application shall be made in such form as may be prescribed by rules and shall be filed before the end of the tenancy year terminating on the 31st March. Determination of rent. Bom. VIII of 1938. Bom. XXIX of 1939. Bom. XXVIII of 1942.

(*2*) On receipt of an application under sub-section (*1*) the Mamlatdar shall give notice to the landlord and after holding a formal inquiry in the manner provided in the Bombay Land Revenue Code, 1879, shall determine the rent of the land. Bom. V. of 1879.

(*3*) Any party aggrieved by the decision of the Mamlatdar under sub-section (*2*) may, within one month from such decision, file an appeal before the Assistant or Deputy Collector in charge of the taluka in which the land is situated.

(*4*) The Assistant or Deputy Collector in appeal may for reasons to be recorded in writing annual, reverse, modify or confirm the decision of the Mamlatdar or he may direct further inquiry to be made on any point or take additional evidence as he may think necessary.

(*5*) The following factors shall be taken into conideration in determining the rent :—

(*i*) the rental values of similar lands used for purposes of growing scheduled foodcrops in the locality;

(*ii*) the prices of scheduled foodcrops in the locality;

(*iii*) improvements, if any, made in the land by the landlord during the tenancy year;

(*iv*) assessment payable in respect of the land; and

(*v*) such other factors as may be prescribed by rules.

(*6*) The Mamlatdar and the Assistant or Deputy Collector in proceedings under this section shall have the same powers as are vested in Courts in respect of the

[1] This section was inserted, *ibid.*, s. 5.

following matters under the Code of Civil Procedure, 1908, in trying a suit, namely :— V of 1908.

(*i*) proof of facts by affidavit ;

(*ii*) summoning and enforcing the attendance of any person and examining him on oath ; and

(*iii*) compelling the production of documents.

The Mamlatdar and the Assistant or Deputy Collector may have also such other powers as may be prescribed by rules.

(*7*) The Mamlatdar or the Assistant or Deputy Collector may award costs in any proceedings under this section and such costs, together with the cost of execution, shall be recoverable from the party orered to pay them as an arrear of land revenue.

(*8*) Every order passed by the Mamlatdar under this Act, if not appealed against, and every order passed by the Assistant or Deputy Collector in appeal, shall hold good only in respect of the tenancy year concerned and shall not be called in question in any Court.

(*9*) Notwithstanding anything contained in the Court-fees Act, 1870, every application under this section to the Mamlatdar and every appeal to the Assistant or Deputy Collector shall bear a court-fee stamp of such value as may be prescribed by rules. VII of 1870.

(*10*) Any party to proceedings under this section may appear by any person authorised in writing to act on his behalf.

Explanation.—For the purpose of this section, the word "Mamlatdar" includes a Mahalkari and any other officer appointed by the Commissioner to perform the duties of a Mamlatdar in respect of any area under this section.]

Penalty.

11. (*1*) If any cultivator contravenes an order made under sections 3, 4, 5 or 6, he shall be punishable with fine which may extend to fifty rupees in relation to every acre or less of land in respect of which the order is contravened.

Explanation.—If the cultivator is a company or a joint family, the principal officer of such company or the *karta* of the joint family, as the case may be, shall be deemed to be the cultivator.

(*2*) Any Court trying such contravention may direct that any crop not being a scheduled foodcrop in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty or, if the crop has been diposed of, such sum as may be equivalent to the fair value of the crop as may be determined by the Court shall be recovered as an arrear of land revenue.

Delegation of powers.

12. The powers conferred on the Provincial Government under this Act may, subject to such restrictions and conditions as it may impose, be delegated by it in whole or in part to the Commissioners or Collectors.

Power to make rules.

13. (*1*) The Provincial Government may be notification in the Official Gazette make rules for carrying out the provisions of this Act.

(*2*) The rules made under this section shall be made after previous publication.

SCHEDULE I.

Food Grains—

1. Rice.
2. Wheat.
3. Jowar : (*a*) Kharif, (*b*) Rabi.
4. Bajri.
5. Ragi.
6. Maize.
7. Kodra.
8. Barley.
9. Sama.
10. Rala.
11. Vari.

Pulses—

1. Gram.
2. Tur.
3. Pavata.
4. Mug.
5. Math.
6. Udid.
7. Wal.
8. Chavli.
9. Kulthi.
10. Peas.
11. Lentil.
12. Lang.

SCHEDULE II.

1. Cotton.
2. Tobacco.

*BOMBAY ACT No. X OF 1944.[1]

[THE MUSSALMAN WAKF, BOMBAY PUBLIC TRUSTS REGISTRATION AND PARSI PUBLIC TRUSTS REGISTRATION (AMENDMENT) ACT, 1944.]

[*15th July 1944.*]

An Act to amend the Mussalman Wakf Act, 1923,[2] in its application to the Province of Bombay, the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936.

XLII of 1923. Bom. XXV of 1935. Bom. XXIII of 1936.

WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936, for the purposes hereinafter appearing;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title.

1. This Act may be called the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944.

XLII of 1923.

Amendment of section 6Q of Act XLII 1923.

2. In section 6Q of the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, after the words "Official Gazette and", the words "if the Provincial Government so directs" shall be inserted.

3-4: [*The amendments made by sections 3 and 4 of this Act, have been incorporated in the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936, respectively.*]

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*This Act was re-enacted by Bom. 25 of 1948, s. 3.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV, p. 154.

[2] *See* Central Acts, Vol. VII.

THE CITY OF BOMBAY MUNICIPAL (POST-WAR RECONSTRUCTION FUND) ACT, 1944.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Creation of post-war reconstruction fund.
4. [*Repealed.*]
5. [*Repealed.*]
6. [*Repealed.*]
7. [*Repealed.*]
8. Corporation to sanction transfer of amounts from one major head of account to another.
9. Expenditure out of post-war reconstruction fund.
10. Variation in exercise of powers under sections 126 and 129 of principal Act.
11. [*Repealed.*]
12. Duration of Act.

*BOMBAY ACT No. XIII OF 1944.[1]

[THE CITY OF BOMBAY MUNICIPAL (POST-WAR RECONSTRUCTION FUND) ACT, 1944.]

[*8th November 1944.*]

Amended by Bom. 39 of 1947.

An Act to supplement temporarily certain provisions of the City of Bombay Municipal Act, 1888, for the purpose of creating a post-war reconstruction fund.

WHEREAS it is expedient to supplement temporarily certain provisions of the City of Bombay Municipal Act, 1888, for the purpose of creating a post-war reconstruction fund; Bom. III of 1888.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature; 26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the City of Bombay Municipal (Post-War Reconstruction Fund) Act, 1944. Short title.

2. In this Act, — Definitions.

(*a*) "the principal Act" means the City of Bombay Municipal Act, 1888; Bom. III of 1888.

(*b*) words and expressions used but not defined shall have the same meaning as in the principal Act.

3. If in the opinion of the Commissioner any expenditure for any purpose, for which the moneys from time to time credited to the municipal fund are liable to be applied under the principal Act, ought to be postponed until after the termination of the war, the Commissioner may under the provisions of this Act, cause moneys for such expenditure to be credited from time to time to a separate fund called the post-war reconstruction fund. Creation of post-war reconstruction fund.

4. [*Estimate of moneys for crediting to the post-war reconstruction fund.*] *Repealed by Bom. 39 of 1947, s. 2 (1).*

5. [*Section 125A of Bom. III of 1888 not to apply to estimate under section 4.*] *Repealed by Bom. 39 of 1947, s. 2 (1).*

6. [*Preparation of budget estimate by standing committee.*] *Repealed by Bom. 39 of 1947, s. 2 (1).*

7. [*Provisions of sections 127, 128 and 129 of principal Act to apply to budget estimate prepared under section 6.*] *Repealed by Bom. 39 of 1947, s. 2 (1).*

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* This Act was re-enacted by Bom. 39 of 1949, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV, p. 229.

Corporation to sanction transfer of amounts from one major head of account to another.

[1][8. The Corporation may, on the recommendation of the standing committee, sanction the transfer from one major head of account to another of any amount credited to the post-war reconstruction fund.]

Expenditure out of post-war reconstruction fund.

9. Expenditure out of the post-war reconstructon fund shall be provided for and made in accordance with the provisions contained in the principal Act relating to expenditure out of the municipal fund for the next ensuing official year :

[2][Provided that expenditure out of the post-war reconstruction fund on any purpose other than the purposes for which expenditure had, pursuant to this Act, been postponed, shall not be provided for or made unless the Corporation, on the recommendation of the standing committee, has passed a resolution that such expenditure should forthwith be incurred out of the said fund :

Provided further that] for the purposes of clause (*b*) of sub-section (*1*) of section 125 of the principal Act, the Commissioner shall determine whether the whole or any part of the amount at credit of the post-war reconstruction fund shall be taken into account as a balance avilable for expenditure at the commencement of the next ensuing official year.

Variation in exercise of powers under sections 126 and 129 of principal Act.

10. The powers under sections 126 and 129 of the principal Act may be exercised by the standing committee and the corporation, as the case may be, for the purpose of increasing or decreasing the sum intended to be appropriated out of the post-war reconstruction fund for expenditure in the next ensuing official year. [3]* * *

11. [*Expenditure out of post-war reconstruction fund before termination of war.*] *Repealed by Bom. 39 of 1947, s. 2 (5).*

Duration of Act.

[4][12. (*1*) This Act shall remain in force up to and inclusive of the 31st day of March 1952.

(*2*) Any amount remaining unexpended in the post-war reconstruction fund on the aforesaid date shall be credited to the municipal fund.]

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[1] This section was substituted for the original by Bom. 39 of 1947, s. 2 (*2*).
[2] These words were substituted for the words "provided that", *ibid.*, s. 2 (*3*).
[3] The proviso was deleted, *ibid.*, s. 2 (*4*).
[4] This section was substituted for the original, *ibid.*, s. 2 (*6*).

THE AHMEDABAD MUNICIPAL OFFICERS' ACTS VALIDATING ACT, 1944.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Validation of acts of Ahmedabad Municipal Officers.

*BOMBAY ACT No. XVII OF 1944.[1]

[THE AHMEDABAD MUNICIPAL OFFICERS' ACTS VALIDATING ACT, 1944.]

[*13th December 1944.*]

An Act to validate the acts of certain Officers of the Ahmedabad Borough Municipality.

WHEREAS, on the supersession of the Ahmedabad Borough Municipality with effect from the 22nd August 1942 to the 31st March 1944 under Government Orders in the General Department Nos. 1825, dated the 21st August 1942, the 21st January 1943 and the 16th August 1943, the Government of Bombay directed that all the powers and duties which may by or under any law for the time being in force, be exercised or performed by or on behalf of the Ahmedabad Borough Municipality shall be exercised and performed by the person for the time being appointed by the said Government under clause (*b*) of sub-rule (*2*) of rule 38-B of the Defence of India Rules (hereinafter called the Administrator);

AND WHEREAS the Administrator did not delegate to the Chief Officer and other officers of the said Municipality any of the powers or duties (being powers and duties which may by or under any law for the time being in force be exercised or performed by or on behalf of the said Municipality) which were conferred and imposed on or delegated to the Chief Officer and other officers before the supersession of the said Municipality;

AND WHEREAS the Chief Officer and other officers of the said Municipality including the officers empowered by the Chief Officer in that behalf immediately before the said supersession did certain acts during the aforesaid period of supersession of the said Municipality purporting to exercise the said powers and perform the said duties;

AND WHEREAS it is expedient that the said acts of the said Chief Officer and all other officers as aforesaid should be validated;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all the powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Ahmedabad Municipal Officers' Acts Validating Act, 1944. Short title.

2. All such powers and duties exercised and performed by the Chief Officer and other officers of the Ahmedabad Borough Municipality during the period of supersession of the said Municipality from the 22nd August 1942 to the 31st March 1944 (both days inclusive) as immediately before the said supersession were by or under any law for the time being in force exercised and performed on behalf of the said Municipality by the said Chief Officer and other officers shall be deemed to be and always be deemed to have been validly exercised and performed; and no acts done by the said Chief Officer and other officers shall after the commencement of this Act be deemed to be invalid or called in question on the ground only that the said powers and duties in the purported exercise of which the said acts were done were not at the time when the said acts were done lawfully vested in them or delegated to them under a rule duly framed by the Administrator; and the said Chief Officer and other officers are now hereby indemnified and discharged from liability in respect of such acts. Validation of acts of Ahmedabad Municipal Officers.

*This Act was repealed and re-enacted by Bom. 14 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV, p. 254.

THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857 AND THE BOMBAY (DISTRICT) TOBACCO ACT, 1933 (SUSPENSION) ACT, 1945.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Suspension of operation of Tobacco Duty (Town of Bombay) Act, 1857, and Bombay (District) Tobacco Act, 1933.

3. Refund of licence fees.

4. Effect of suspension of Acts.

*BOMBAY ACT No. XI OF 1945.[1]

[THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857 AND THE BOMBAY (DISTRICT) TOBACCO ACT, 1933 (SUSPENSION) ACT, 1945.]

[*28th April 1945.*]

An Act for the suspension of the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933.

WHEREAS pursuant to an agreement the Government of Bombay has accepted the offer of the Government of India to pay a certain sum in compensation *inter alia* for the complete withdrawal of, and abstention from, all forms of taxation on tobacco within the Province of Bombay in the first instance till the 31st day of March 1948;

AND WHEREAS for implementing the said agreement and possible future agreements of a like nature it is expedient to take power to suspend the provisions of the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933;

IV of 1857. Bom. II of 1933.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act:—

IV of 1857. Bom. II of 1933.

Short title.

1. This Act may be called the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (Suspension) Act, 1945.

Suspension of operation of Tobacco Duty (Town of Bombay) Act, 1857, and Bombay (District) Tobacco Act, 1933.

2. (*1*) The Provincial Government may, by notification in the Official Gazette, suspend either indefinitely or for such period as may be specified in the notification, the operation of the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (hereinafter called the said Acts).

IV of 1857. Bom. II of 1933.

(*2*) Where the operation of the said Acts has under sub-section (*1*) been suspended indefinitely, such suspension may at any time be removed by the Provincial Government by notification in the Official Gazette.

Refund of license fees.

3. Where the said Acts have been suspended under sub-section (*1*) of section 2, a licensee shall, in respect of any fee paid for a license granted to him under the provisions of the said Acts, be entitled to a refund of the proportionate amount of the license fee in respect of the period of the license which shall remainunexpired on the date on which a notification under sub-section (*1*) of section 2 comes into operation.

Effect of suspension of Acts.

4. The suspension of the said Acts shall not—

(*a*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any provision of the said Acts; or

(*b*) affect any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Acts had not been suspended.

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* The Act was repealed and re-enacted by Bom. 1 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1945, Part IV, page 3.

*BOMBAY ACT No. XV OF 1945.[1]

[THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1945.]

[*20th June 1945.*]

An Act to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay.

XLII of 1923. WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay for the purposes hereinafter appearing;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. This Act may be called the Mussalman Wakf (Bombay Amendment) Act, 1945. Short title.

XLII of 1923. 2. In sub-section (*1*) of section 6C of the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, for clause (i) the following shall be substituted, namely :— Amendment of section 6C of Act XLII of 1923.

" (i) whether a wakf exists;

(ia) whether such wakf is a wakf to which this Act applies; ".

* This Act was repealed and re-enacted by Bom. 25 of 1948, ss. 2 & 4.

[1]For the Statement, *see Bombay Government Gazette*, 1945, Pt. V, page 30.

THE GREATER BOMBAY LAWS AND THE BOMBAY HIGH COURT (DECLARATION OF LIMITS) ACT, 1945.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Extension of enactments to Greater Bombay.
4. Certain enactments not to be in force in the added areas.
5. Declarations of limits of jurisdiction of the High Court.
6. Pending proceedings.
7. Amendment of entries in Schedules A and C.
8. Definitions in Central Acts relating to certain matters.
9. [*Repealed.*]

SCHEDULES A to D.

SCHEDULE E. [*Repealed.*]

† BOMBAY ACT No. XVII OF 1945.[1]

[THE GREATER BOMBAY LAWS AND THE BOMBAY HIGH COURT (DECLARATION OF LIMITS) ACT, 1945.]

[*15th August 1945.*]

Amended by Bom. 52 of 1947.

WHEREAS it is expedient to extend the limits of the City of Bombay by including therein some portion of the Bombay Suburban District; AND WHEREAS it is necessary to constitute the whole of the said area into an area hereinafter called the Greater Bombay;

AND WHEREAS clause 11 of the Letters Patent of the High Court of Judicature at Bombay dated the 28th December 1865 provides that the said High Court shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared and prescribed by any law made by the Governor of Bombay in Council; AND WHEREAS under the provisions of the Government of India Act, 1935, the Provincial Legislature of Bombay is competent to declare and prescribe the local limits of such jurisdiction;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, the powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and commencement.

1. (*1*) This Act may be called the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945.

(*2*) It shall come into force with effect from such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act,—

(*1*) "City of Bombay" means the area within the local limits of the ordinary original civil jurisdiction of the High Court immediately before the commencement of this Act;

(*2*) "Greater Bombay" means the areas for the time being specified in Schedule A;

(*3*) "High Court" means the High Court of Judicature at Bombay;

(*4*) "Letters Patent" means the Letters Patent of the High Court dated the 28th December 1865;

(*5*) "Schedule" means a Schedule appended to this Act.

Extension of enactments to Greater Bombay.

3. (*1*) Such provisions, or such parts of the provisions,—

(*a*) of any enactment relating to any of the matters enumerated in Lists II and III in the Seventh Schedule to the Government of India Act, 1935, made by any authority in British India, or

26 5, Geo.

(*b*) of any notification, order, scheme, rule, form or by-law issued, made or prescribed under any enactment of the class referred to in clause (*a*),

† This Act was repealed and re-enacted except section 9 and Schedule E by Bom. 52 of 1947, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1945, Pt. IV, page 147.

as were in force immediately before the commencement of this Act in the area comprised in the City of Bombay (in whatever manner described, whether a City of Bombay, Town of Bombay, Town and Island of Bombay, Islands of Bombay and Kolaba, Presidency-town, Presidency-town of Bombay, Collectorate of Bombay or otherwise) but not in the other areas comprised in Greater Bombay are hereby declared to be in force in all the areas comprised in Greater Bombay, and all references to the said City, in whatever manner described, in the said provisions of the enactments, notifications, orders, schemes, rules, forms and by-laws shall be deemed to be references to Greater Bombay.

(*2*) Nothing in sub-section (*1*) shall—

(*a*) apply to any provisions made by or under the enactments specified in Schedule B and Schedule C;

(*b*) affect the right of any competent authority to repeal, amend or cancel any enactment, notification, order, scheme, rule, form or by-law referred to in sub-section (*1*).

Certain enactments not to be in force in the added areas.

4. (*1*) The enactments mentioned in Schedule D and all notifications, orders, schemes, rules, forms and by-laws made, issued or prescribed thereunder shall cease to apply to, or to be in force in, the areas specified in Part II of Schedule A.

(*2*) Nothing in sub-section (*1*) shall affect—

(*a*) the right of any competent authority to direct that any enactment, notification, order, scheme, rule, form or by-law referred to in the said sub-section shall apply to or be in force in the areas referred to in the said sub-section or to make, issue or prescribe any notification, order, scheme, rule, form or by-law under any such enactment; or

(*b*) the operation of any such enactment, notification, order, scheme, rule, form or by-law before the commencement of this Act; or

(*c*) any right, privilege, obligation or liability acquired, accrued or incurred under any such enactment, notification, order, scheme, rule, form or by-law before the commencement of this Act.

Declaration of limits of jurisdiction of the High Court.

5. (*1*) The High Court shall have and exercise ordinary original civil jurisdiction within the areas for the time being comprised in Greater Bombay.

(*2*) Save as otherwise provided in this Act, nothing in sub-section (*1*) shall affect—

(*a*) the jurisdiction of the High Court as a Court of Admiralty or Vice Admiralty under clauses 32 and 33 of the Letters Patent or under the Territorial Waters Jurisdiction Act, 1878, or otherwise exercisable by it in connection with prize matters or other maritime questions arising in India; 41-42 Vict. Ch. 73.

(*b*) any right or liability of any Government or any local authority or person, except in regard to the exercise of jurisdiction and any legal consequences thereof.

6. Notwithstanding anything contained in this Act all proceedings pending in any court in Greater Bombay and all other proceedings of whatever nature pending before any public officer, [1]* * * * at the date of the commencement of this Act (including proceedings where an appeal or an application for revision lies or will lie from a decision made or to be made), [2][if such other proceedings are pending in any of the areas comprised in Greater Bombay or are pending in respect of any such areas] shall be disposed of by such authority as the Provincial Government may direct and in the absence of such direction any such proceeding shall be continued and disposed of as if this Act had not been passed. Pending proceedings.

7. (*1*) The Provincial Government may, from time to time, with the concurrence of the High Court by notification in the *Official Gazette*, add to, alter or amend the entries in Schedule A, so far as may be necessary in consequence of reclamation, encroachment by sea, submergence of water-course or other alterations of sea limits or correct mistakes in the said Schedule and the said Schedule shall, on the issue of such notification, be deemed to be amended accordingly. Amendment of entries in Schedules A and C.

(*2*) The Provincial Government may, from time to time, by notification in the *Official Gazette*, add to, alter or amend the entries in Schedule C and the said Schedule shall on the issue of such notification be deemed to be amended accordingly.

8. In all Central Acts and Regulations relating to any of the matters enumerated in Lists II and III in the Seventh Schedule to the Government of India Act, 1935, passed before the commencement of this Act, unless there is anything repugnant in the subject or context,— Definitions in Central Acts relating to certain matters.

26 Geo. 5, Ch. 2.

(*1*) "City of Bombay" shall mean the area within the local limits of the ordinary original civil jurisdiction of the High Court immediately before the commencement of this Act;

(*2*) "Presidency town of Bombay", "town of Bombay", "town and island of Bombay" and "Presidency town" when used with reference to the Province of Bombay, or "Greater Bombay" shall mean the areas for the time being specified in Schedule A.

[3]9. [*Amendment of certain enactments.*] *Rep. by Bom. 52 of 1947, s. 2.*

SCHEDULE A.

Areas comprised in Greater Bombay.

[*See* section 2 (*2*).]

Part I.

1. The Town and Island of Bombay.

2. The limits of the Port of Bombay as defined in the Government notification in the Political Department, No. 6204, dated the 6th June 1930, issued under section 5 of the Indian Ports Act, 1908. XV of 1908.

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[1] The words "in or in respect of any of the areas comprised in Greater Bombay" were deleted by Bom. 52 of 1947, s. 2 and Schedule.

[2] These words were inserted, *ibid.*

[3] The amendments made by this section and Schedule E in certain enactments have been continued in force by Bom. 52 of 1947, s. 2.

Part II.

1. The limits of the municipal boroughs of Bandra, Parle-Andheri and Kurla and of the municipal districts of Ghatkopar-Kirol and Juhu.

2. The undermentioned 28 villages of the Bombay Suburban District :—

1. Bandivali.	11. Man Budruk.	21. Mohili.
2. Chembur.	12. Mulgaon.	22. Maravali.
3. Vadawli.	13. Vesava.	23. Mogre.
4. Ambivali.	14. Madh.	24. Shahar.
5. Chakala.	15. Devnar.	25. Nanala.
6. Trombay.	16. Borle.	26. Saki.
7. Bapnala.	17. Mahul.	27. Asalpe (Asap).
8. Brahmanwada.	18. Anik.	28. Kondivate.
9. Mandala.	19. Kole-Kalyan.	
10. Mankhurd.	20. Marol.	

Note.—The limits of the above areas comprising Greater Bombay are shown by a purple line on two plans signed by the Secretary to Government, Home Department, one of which is deposited with the Prothonotary of the High Court and the other with the Secretary to Government, Home Department.

SCHEDULE B.

Enactments which are not affected by this Act.

[*See* section 3 (*2*).]

Year.	No.	Short title.
1	2	3
		Central Acts.
1876	XV	The Bombay Municipal Debentures Act, 1876.
1888	XII	The City of Bombay Municipal (Supplementary) Act 1888.
		Bombay Acts.
1867	VI	The Bombay City Sanitary Regulation Act, 1867.
1874	I	The Bombay Tramways Act, 1874.
1876	II	The Bombay City Land-Revenue Act, 1876.
1877	I	The Bombay Vaccination Act, 1877.
1888	III	The City of Bombay Municipal Act, 1888.
1890	V	The Bombay Municipal Servants Act, 1890.
1898	I	The City of Bombay Municipal Investments Act, 1898.
1915	IV	The Bombay City Survey Act, 1915.
1920	XV	The City of Bombay Primary Education Act, 1920.

SCHEDULE C.

Enactments which are not affected by this Act.

[*See* section 3 (*2*).]

Year.	No.	Short title.
1	2	3
		Central Acts.
1899	II	The Indian Stamp Act, 1899.
[1] *	*	* * * *
		Bombay Acts.
1925	V	The Bombay Prevention of Adulteration Act, 1925.
1925	VI	The Bombay Betting Tax Act, 1925.
1925	VIII	The Bombay Securities Contracts Control Act, 1925.
1929	VII	The Bombay Maternity Benefit Act, 1929.
1932	II	The Bombay Finance Act, 1932.
1932	XV	The Bombay Weights and Measures Act, 1932.
1939	XVI	The Bombay Rent Restriction Act, 1939.
1939	XXIV	The Bombay Shops and Establishments Act, 1939.
1944	VII	The Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944.
		All Central Ordinances.

SCHEDULE D.

Enactments which shall cease to apply to or to be in force in the areas specified in Part II of Schedule A.

[*See* section 4 (*1*).]

Year.	No.	Short title.
1	2	3
		Central Acts.
1869	XIV	The Bombay Civil Courts Act, 1869.
1871	I	The Cattle-trespass Act, 1871.
1887	IX	The Provincial Small Cause Courts Act, 1887.
1920	V	The Provincial Insolvency Act, 1920.
		Bombay Acts.
1867	VII	The Bombay District Police Act, 1867.
1890	IV	The Bombay District Police Act, 1890.
1905	I	The Bombay Court of Wards Act, 1905.
1906	II	The Mamlatdars' Courts Act, 1906.

[2]SCHEDULE E.

[*Enactments which are amended by this Act to the extent and in the manner specified in column 4 hereof.*] *Rep. by Bom. 52 of 1947, s. 2.*

[1] The figures and words "1939, XXV. The Defence of India Act, 1939" were deleted by Bom. 52 of 1947, s. 2 and Schedule.

[2] The amendments made in the various enactments, have been continued in force by Bom. 52 of 1947, s. 2.

THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1945.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Insertion of new Part I-A in Act I of 1894.
3. Amendment of section 45 of Act I of 1894.
4. Amendment of section 46 of Act I of 1894.

*BOMBAY ACT No. XX OF 1945.[1]

[THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1945.]

[*3rd November 1945.*]

An Act to amend the Land Acquisition Act, 1894,[2] in its application to the Province of Bombay.

I of 1894. WHEREAS it is necessary to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay for the purpose hereinafter appearing;

26 Geo. 5, Ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the Land Acquisition (Bombay Amendment) Act, 1945. Short title.

I of 1894. **2.** After Part I of the Land Acquisition Act, 1894, hereinafter called "the said Act", the following Part shall be inserted, namely:— Insertion of new Part I-A in Act I of 1894.

"PART I-A.

Preliminary Survey.

3A. For the purpose of enabling the Provincial Government to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer of the Provincial Government in the Public Works Department, or any other officer either generally or specially authorised by the Provincial Government in this behalf, and for his servants and workmen,— Preliminary survey of lands and powers of officers to carry out survey.

(*i*) to enter upon and survey and take levels of any land in such locality,

(*ii*) to mark such levels,

(*iii*) to do all other acts necessary to ascertain whether the land is adapted for such purpose, and

(*iv*) where otherwise the survey cannot be completed and the levels taken, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

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* This Act was repealed and re-enacted by Bom. 10 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1945, Pt. IV, page 173.

[2] *See* Unrepealed Central Acts, Vol. III, p. 481.

Payment for damage.

3B. The officer of the Provincial Government in the Public Works Department, and any other officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final."

Amendment of section 45 of Act I of 1894.

3. In section 45 of the said Act, for the word and figure "section 4" the words, figures and letter "section 3A or 4" shall be substituted.

Amendment of section 46 of Act I of 1894.

4. In section 46 of the said Act—

(*a*) after the word "by" the word, figure and letter "section 3A" shall be inserted; and

(*b*) after the words "under section" the figure, letter and words "3A or section" shall be inserted.

THE BOMBAY BEGGARS ACT, 1945.

CONTENTS.

PREAMBLE.

CHAPTER I.—PRELIMINARY.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Powers of Courts.

CHAPTER II.—PROCEDURE FOR DEALING WITH BEGGARS AND BEGGAR OFFENDERS.

4. Power to require person found begging to appear before Court.
5. Summary inquiry in respect of persons found begging and their detention.
6. Penalty for begging after detention as beggar.
7. Court may order detention of persons wholly dependent on beggar.
8. Power of Government to order further detention of incurably helpless beggars.
9. Penalty for employing or causing persons to beg or using them for purposes of begging.

CHAPTER III.—RECEIVING CENTRES AND CERTIFIED INSTITUTIONS.

10. Provision of Receiving Centres.
11. Provision of Certified Institutions.
12. Visiting Committees.
13. Advisory Committees.
14. Payment of Contribution by local authorities and recovery thereof.
15. Appointment of Chief Inspector and Assistants.
16. Search in Receiving Centres and Certified Institutions.
17. Management and discipline.
18. Disciplinary imprisonment.
19. Transfer from one Receiving Centre or Certified Institution to another.
20. Release on licence.
21. Revocation of license.
22. Unconditional release.

CHAPTER IV.—MISCELLANEOUS.

SECTIONS.

23. Externment from the Province of beggars not domiciled therein.

24. Procedure on order of detention or sentence of imprisonment.

25. Medical examination and detention of lepers and lunatics.

26. Arrest of person escaping from Receiving Centre or Certified Institution.

27. Transfers between Certified Institution and Institution of like nature in different parts of India.

28. Power to take finger prints.

28A. Seizure and disposal of animals exposed or exhibited for obtaining or extorting alms.

29. Offences to be cognizable and non-bailable.

30. Persons to be deemed public servants.

31. Bonds taken under Act V of 1898.

32. Appeals.

33. Rules.

34. Repeal.

35. Savings.

*BOMBAY ACT No. XXIII OF 1945.[1]

[THE BOMBAY BEGGARS ACT, 1945.]

[*20th February 1946.*]

Amended by Bom. 53 of 1947.

An Act to provide for the prevention of begging, for the detention, training and employment of beggars and their dependents in Certified Institutions, and for the custody, trial and punishment of beggar offenders in the Province of Bombay.

WHEREAS it is expedient to make provision for the prevention of begging, for the detention, training and employment of beggars and their dependents in Certified Institutions, and for the custody, trial and punishment of beggar offenders in the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26, Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Beggars Act, 1945.

(*2*) It extends to the whole of the Province of Bombay but shall come into force in any area thereof only on such date as the Provincial Government may by notification in the *Official Gazette* appoint in this behalf for that area.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "begging" means—

(*a*) soliciting or receiving, alms in a public place, whether or not under any pretence such as singing, dancing, fortune-telling, performing tricks or selling articles;

(*b*) entering on any private premises for the purpose of soliciting or receiving alms;

(*c*) exposing or exhibiting with the object of obtaining or extorting alms any sore, wound, injury, deformity or disease [2][whether of a human being or an animal];

(*d*) having no visible means of subsistence and wandering about or remaining in any public place in such condition or manner as makes it likely that the person doing so exists by soliciting or receiving alms;

(*e*) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms; but does not include—

(*i*) soliciting or receiving alms in or about a temple, mosque or other place of public worship, or

*This Act was repealed and re-enacted by Bom. 53 of 1947, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1945, Pt. V, page 43.

[2] These words were added by Bom. 53 of 1947, s. 2 (*1*) (*a*).

(*ii*) soliciting or receiving money or food or gifts for a purpose authorized by any law or authorized in the prescribed manner by the Commissioner of Police in the [1][Greater Bombay] or the District Magistrate elsewhere or by the Provincial Government:

Provided that on the application of the trustee of any temple, mosque or other place of public worship the Provincial Government may direct by notification or in the manner prescribed that "begging" shall include soliciting or receiving alms in or about such temple, mosque or other place of public worship;

(*ii*) "Certified Institution" means any institution which the Provincial Government provides and maintains for the detention, training and employment of beggars and their dependents and includes an institution certified as such under sub-section (*1*) of section 11;

(*iii*) "Chief Inspector" means the Chief Inspector of Certified Institutions appointed under sub-section (*1*) of section 15;

(*iv*) "child" has the meaning assigned to it in the [2]Bombay Children Act, 1924; Bom. XIII of 1924.

[3][(*iv-a*) 'Court' means the court of a salaried Presidency Magistrate in Greater Bombay and that of a Magistrate of the First Class elsewhere;]

(*v*) "Juvenile Court" has the meaning assigned to it under the [2]Bombay Children Act, 1924; Bom. XIII of 1924.

(*vi*) [4]* * * * * *

(*vii*) "prescribed" means prescribed by rules made under this Act;

(*viii*) "public place" includes a railway train;

(*ix*) "Receiving Centre" means an institution for the reception and temporary detention of beggars provided by the Provincial Government or certified as such under sub-section (*1*) of section 10;

(*x*) "trustee" means a person by whatever description known in whom the administration of a temple, mosque or other place of pulic worship is vested by any law for the time being in force or the terms of the instrument of trust or the terms of a decree or order of a competent court, relating to such temple, mosque or other place, or if there is no such person, any person who has administered the temple, mosque or other place for the period of one year immediately prior to the date of the application referred to in the proviso to sub-clause (*e*) (*ii*) of clause (*i*) of this section, and who is liable as if he were a trustee, and if there are more than one such trustee, the majority of the trustees.

CHAPTER II.

PROCEDURE FOR DEALING WITH BEGGARS AND BEGGAR OFFENDERS.

Powers of Courts.

3. The powers conferred on courts by this Act shall be exercised only by the High Court, a court of session, a salaried Presidency Magistrate, a Magistrate of the first class or a Juvenile Court and may be exercised by such Courts whether the case comes before them originally or on appeal or revision.

[1] These words were substituted for the words "City of Bombay" by Bom. 53 of 1947, s. 2 (*1*) (*b*).

[2] See now the Bombay Children Act, 1948 (Bom, 71 of 1948).

[3] This clause was inserted, *ibid.*, s. 2 (*1*) (*c*).

[4] This clause was deleted, *ibid.*, s. 2 (*1*) (*d*).

4. (*1*) Any police officer or other person authorized in this behalf in accordance with rules made by the Provincial Government may arrest without a warrant any person who is found begging: Power to require person found begging to appear before court.

Provided that no person entering on any private premises for the purpose of soliciting or receiving alms shall be so arrested or shall be liable to any proceedings under this Act except upon a complaint of the [1]* * occupier of the premises.

(*2*) Such police officer or other person shall take or send the person so arrested to a court.

V of 1898. Bom. IV of 1902.

(*3*) The provisions of section 61 of the Code of Criminal Procedure, 1898, or section 87 of the City of Bombay Police Act, 1902, as the case may be, shall apply to every arrest under this section, and the officer in charge of the police station or section shall cause the arrested person to be kept in the prescribed manner until he can be brought before a court.

5. (*1*) Where a person who is brought before the court under section 4 is not proved to have previously been detained in a Certified Institution under this Act, the court shall make a summary inquiry in the prescribed manner as regards the allegation that he was found begging. Summary inquiry in respect of persons found begging and their detention.

(*2*) If the inquiry referred to in sub-section (*1*) cannot be completed forthwith, the court may adjourn it from time to time and order the person to be remanded to such place and custody as may be convenient.

(*3*) If on making the inquiry referred to in sub-section (*1*), the court is not satisfied that the person was found begging it shall order that such person be released forthwith.

(*4*) If on making the inquiry referred to in sub-section (*1*) the court is satisfied that such person was found begging it shall record a declaration that the person is a [2][beggar. The court shall also determine after making an enquiry in the manner prescribed whether the person was born in the Province of Bombay and domiciled therein and shall include its findings in the declaration. The court shall] subject to the provisions of section 23 make further order as in this section hereinafter provided.

(*5*) The court shall order the person declared as beggar under sub-section (*4*) to be detained in a Certified Institution for a period of not less than one and not more than three years:

Provided that if the court is satisfied from the circumstances of the case that the person declared as beggar under sub-section (*4*) is not likely to beg again it may release the beggar after due admonition on a bond for the beggar's abstaining from begging and being of good behaviour being executed with or without sureties as the court may require by the beggar or any other person whom the court considers suitable.

(*6*) A copy of the order made under sub-section (*5*) shall forthwith be sent to the Chief Inspector.

(*7*) Notwithstanding anything in this section when the person declared as beggar under sub-section (*4*) is a child not below the age of five years the court shall forward it to a Juvenile Court and shall not make any order under sub-section (*5*). The Juvenile Court shall deal with it under section 7 of the[3] Bombay Children Act, 1924, as if the child was as described in clause (*a*) of sub-section (*1*) of that section. For the purpose of this sub-section, the court may if necessary cause the beggar to be examined by a medical officer.

Bom. XIII of 1924.

[1] The words "owner or" were deleted by Bom. 53 of 1947, s. 2 (*2*).
[2] These words were substituted for the words "beggar and", *ibid.*, s. 2 (*3*).
[3] *See* now the Bombay Children Act, 1948 (Bom. 71 of 1948).

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Penalty for begging after detention as beggar.

6. (*1*) Whoever having been previously detained in a Certified Institution under this Act is found begging shall on conviction be punished as hereinafter in this section provided.

(*2*) When a person is convicted for the first time under sub-section (*1*) the court shall order him to be detained in a Certified Institution for not less than three years and not more than seven years and may convert any period of such detention not exceeding one year into a sentence of imprisonment extending to a like period.

(*3*) When a person is convicted for the second or subsequent time under sub-section (*1*) the court shall order him to be detained for ten years in a Certified Institution and may convert any period of such detention not exceeding two years into a sentence of imprisonment extending to a like period.

Court may order detention of persons wholly dependent on beggar.

7. (*1*) When the court has ordered the detention of a person in a Certified Institution under section 5 or 6 it may after making such inquiry as it thinks fit order any other person who is wholly dependent on such person to be detained in a Certified Institution for a like period :

Provided that before such order is made such dependent person shall be given an opportunity of showing cause why it should not be made.

(*2*) Where the dependent person is a child the court shall forward it to a Juvenile Court which shall deal with it under section 7 of the [1]Bombay Children Act, 1924, as if the child was as described in clause (*a*) of sub-section (*1*) of that section : Bom. XIII of 1924.

Provided that where the dependent person is the beggar's own child below the age of five years and the beggar is an able-bodied mother not being a contagious leper or a lunatic the child may be ordered to be detained in a Certified Institution without being separated from the mother as regards the place of detention, until it attains the age of five years and thereafter dealt with as provided in this sub-section.

(*3*) For the purpose of this section, the court may if necessary cause the dependent person to be arrested and brought before itself and examined by a medical officer. The provisions of section 61 of the Code of Criminal Procedure, 1898, or section 87 of the City of Bombay Police Act, 1902, as the case may be, shall apply to every arrest under this sub-section, and the officer in charge of the police station or section shall cause the arrested person to be kept in the prescribed manner until he can be brought before a Court. V of 1898. Bom. IV 1902.

Power of Government to order further detention of incurably helpless beggars.

8. When any person who is detained in a Certified Institution under section 5, 6 or 7 is, whether on an application made by him to the Provincial Government or otherwise, considered by the Provincial Government to be blind, cripple, or otherwise incurably helpless, the Provincial Government may order that he shall, after the expiry of the period of his detention be further detained indefinitely in a Certified Institution :

Provided that the Provincial Government may release any such inmate if any person whom the Provincial Government considers suitable executes a bond, with or without sureties as the Provincial Government may require making himself responsible for the housing and maintenance of such inmate and for preventing him from begging or being used for the purpose of begging.

[1] See now the Bombay Children Act, 1948 (Bom. 71 of 1948).

9. Whoever employs or causes any person to solicit or receive alms, or whoever having the custody, charge or care of a child connives at or encourages the employment or the causing of a child to solicit or receive alms, and whoever uses another person as an exhibit for the purpose of begging, shall on conviction be punishable with imprisonment for a term which may extend to one year and thereafter with detention in a Certified Institution for a period of not less than one year and not more than three years or with imprisonment for a further term which may extend to one year in lieu of such detention. Penalty for employing or causing persons to beg or using them for purposes of begging.

CHAPTER III.

Receiving Centres and Certified Institutions.

10. (*1*) The Provincial Government may provide and maintain one or more Receiving Centres at such place or places as it thinks fit or may certify any institution to be a Receiving Centre for the purposes of this Act. Provision of Receiving Centres.

(*2*) Every such Receiving Centre shall be under the control of an officer-in-charge.

11. (*1*) The Provincial Government may provide and maintain one or more Certified Institutions at such place or places as it thinks fit or may certify any institution to be a Certified Institution for the purposes of this Act. Any such Certified Institution may include provision for the teaching of agricultural, industrial and other pursuits and for the general education and medical care of the inmates. Provision of Certified Institutions.

(*2*) Every such Certified Institution shall be under the charge of a Superintendent.

12. For every Receiving Centre and every Certified Institution the Provincial Government shall appoint a visiting committee in such manner as may be prescribed. Visiting Committees.

13. (*1*) The Provincial Government may constitute for any area in which this Act has come into force under sub-section (*2*) of section 1 an Advisory Committee consisting of such persons not exceeding twenty in number as it may appoint : Advisory Committees.

Provided that where a local authority has agreed to render such financial assistance as the Provincial Government may consider proper in each case for the maintenance of Certified Institutions in which beggars from the area subject to the jurisdiction of the local authority are detained, the Provincial Government shall appoint such number of persons as it deems fit on the Advisory Committee for such area representing the local authority.

(*2*) The Advisory Committee constituted under sub-section (*1*) in any local area or any member thereof may visit at all reasonable times and after due notice to the Superintendent any Certified Institution in which beggars from that area are detained.

(*3*) The Advisory Committee may also—

(*i*) tender advice as regards management to any Certified Institutions through the Chief Inspector or such other officer as the Provincial Government may specify ;

(*ii*) collect subscriptions towards the recurring as well as non-recurring expenses of any or all Certified Institutions within the local area or in which beggars from that area are detained : and disburse the collections in the prescribed manner ;

(*iii*) advise the Provincial Government through the Chief Inspector as regards the certification of any Institution as a Certified Institution or the de-certification of any Certified Institution within the local area;

(*iv*) advise the Provincial Government generally on the working of this Act in that area and particularly on any point referred to it by the Chief Inspector or any other officer specified by the Provincial Government.

Payment of contribution by local authorities and recovery thereof.

14. (*1*) Notwithstanding anything contained in any law for the time being in force, any local authority which has agreed to pay a certain sum of money for the maintenance of a Certified Institution shall make payment of that sum to the Provincial Government before a date prescribed in that behalf.

(*2*) If any sum is not paid by a local authority under sub-section (*1*) before the prescribed date, the Provincial Government may make an order directing any person, who for the time being has custody of any moneys on behalf of the local authority, as its officer, treasurer, banker or otherwise to pay the sum from such moneys as he may have in his hands or may from time to time receive to the Provincial Government and such person shall be bound to obey such order.

Appointment of Chief Inspector and Assistants.

15. (*1*) For carrying out the purposes of this Act, the Provincial Government may appoint a Chief Inspector of Certified Institutions, an Inspector and such number of Assistant Inspectors as it thinks advisable to assist the Chief Inspector; and every person so appointed to assist the Chief Inspector shall have such of the powers and duties of the Chief Inspector as the Provincial Government directs but shall act under the direction of the Chief Inspector.

(*2*) Every Receiving Centre and Certified Institution shall, at least once in every six months, be inspected by the Chief Inspector or Inspector or Assistant Inspector.

Search in Receiving Centres and Certified Institutions.

16. The officer in charge of a Receiving Centre or Superintendent of a Certified Institution may order that any person received in the Receiving Centre or Certified Institution [1][shall be searched, that he shall be cleansed], that his personal effects shall be inspected, and that any money or valuables found with or on the person shall be kept in the custody of such officer or Superintendent, and that any effects other than money or valuables so found shall be disposed of in the prescribed manner. Where an order of detention is passed by the court against any such person, the officer or Superintendent, as the case may be, may order that any money [2][or valuables found with or on the person shall be disposed of in the prescribed manner.] Where the court passes an order other than an order of detention with regard to any such person his money and valuables shall be returned to him and if his clothing has been destroyed, he shall be provided with fresh clothing. The expenses of providing such clothing shall be borne by the Provincial Government:

Provided that a female person shall be searched by a female only and with due regard to decency.

Management and discipline.

17. Persons remanded to or detained in Receiving Centres and Certified Institutions under this Act shall be subject to such rules of management and discipline, including the imposition of manual or other work and the awarding of punishment for breach of any such rule, as may from time to time be prescribed.

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[1] These words were substituted for the original by Bom. 53 of 1947, s. 2 (*4*) (*a*).
[2] These words were substituted for the original, *ibid.*, s. 2 (*4*) (*b*).

18 (*1*) Without prejudice to any disciplinary action that may be taken under section 17, the Chief Inspector may report to the court the case of any person detained in a Certified Institution who habitually wilfully disobeys or neglects to comply with any rule referred to in section 17 and the court may thereupon if satisfied that the person has wilfully disobeyed or neglected to comply with any such rule convert any period of his detention in a Certified Institution not exceeding three months into a term of imprisonment extending to a like period. Disciplinary imprisonment.

(*2*) The sentence of imprisonment ordered under sub-section (*1*) shall be executed in the same manner as a sentence passed under section 6.

19. (*1*) Subject to the prescribed conditions the Chief Inspector may direct any person detained in a Receiving Centre or Certified Institution to be transferred therefrom to another Receiving Centre or Certified Institution: Transfer from one Receiving Centre or Certified Institution to another.

Provided that the total period of detention of such person shall not be increased by such transfer.

(*2*) In directing such transfers the Chief Inspector shall have regard to the medical report and the directions, if any, made by the court under section 25.

20. (*1*) Subject to the prescribed conditions the Chief Inspector may at any time grant permission to a person detained in a Certified Institution to absent himself for short periods or release him conditionally by granting him a licence. Release on licence.

(*2*) Any licence granted under sub-section (*1*) shall be in force until the expiry of the term for which the person was ordered to be detained in a Certified Institution unless sooner revoked.

(*3*) The period during which such person is absent from a Certified Institution during the continuance of a permission or licence granted to him under this section shall for the purpose of computing his term of detention in a Certified Institution be deemed to be part of his detention.

21. (*1*) Subject to the prescribed conditions the Chief Inspector may at any time revoke a licence granted under section 20, and thereupon the released person shall be detained in a Certified Institution until the expiry of the term for which he had been ordered to be detained. Revocation of licence.

(*2*) For the purpose of this section the Chief Inspector may, if necessary, cause the released person to be arrested and sent to the nearest Receiving Centre together with a copy of the order of detention, and thereupon the provisions of sub-section (*1*) of section 24 shall as far as may be apply.

22. At any time after the expiration of three months from the commencement of the release on licence of any person under section 20, the Chief Inspector may if he is satisfied that there is a probability that such person will abstain from begging recommend to the Provincial Government his unconditional release. The Provincial Government may on such recommendation release such person unconditionally and thereupon the term for which such person had been ordered to be detained in a Certified Institution shall be deemed to have expired. Unconditional release.

CHAPTER IV.

MISCELLANEOUS.

23. (*1*) If in the course of an inquiry made under sub-section (*1*) of section 5, it has appeared to the court that the person declared a beggar under sub-section (*1*) of section 5 [1][is neither born nor domiciled in] the Province of Bombay the court, after making such further inquiry, if any, as it deems necessary, may, instead of Externment from the Province of beggars not domiciled therein.

[1] These words were substituted for the words "is domiciled outside" by Bom. 53 of 1947, s. 2 (*5*) (*a*).

proceeding further under section 5, by order in writing direct the beggar to leave the Province of Bombay within such time and by such route or routes as may be stated in the order and not to return thereto.

[1][(*2*) Notwithstanding anything hereinbefore contained, the Commissioner of Police for the Greater Bombay, or a District Magistrate may by an order in writing served on him direct a person who has been declared a beggar under section 5 or had been convicted under section 9 and who is neither born nor domiciled in the Province of Bombay to leave the said Province within such time and by such route or routes as may be stated in the order and not to return thereto.

(*3*) If any person fails to comply with an order made under sub-section (*1*) or (*2*), the court or the Commissioner of Police or the District Magistrate, as the case may be, may cause such person to be arrested and removed in police custody outside the Province of Bombay by such route or routes as the court or the Commissioner of Police or the District Magistrate may in each case direct.

(*4*) When any person against whom an order has been made under sub-section (*1*) or (*2*) returns, in contravention of such order, to any place within the Province of Bombay, he shall, on conviction, be punishable with imprisonment which may extend to three years.

(*5*) A copy of the order made under sub-section (*1*) or (*2*) shall forthwith be sent to the Chief Inspector.]

Procedure on order of detention or sentence of imprisonment.

24. (*1*) Subject to the provisions of sub-section (*2*) when a person has been ordered to be detained in a Certified Institution under section 5, 6, 7, [2][or 9], the court which ordered the detention shall forthwith forward him to the nearest Receiving Centre with a copy of the order of detention. The person shall thereupon be handed over to the custody of the officer in charge of the Receiving Centre and shall be detained in the Receiving Centre until he is sent therefrom to a Certified Institution.

(*2*) When any such person has also been sentenced to imprisonment, the court passing the sentence of imprisonment shall forthwith forward a warrant to a jail in which he is to be confined and shall forward him to such jail with the warrant together with a copy of the order of detention. After the sentence of imprisonment is fully executed, the Officer executing it shall, if detention in a Certified Institution for any period remains to be undergone by such person, forward him forthwith together with the copy of the order of detention to the nearest Receiving Centre, and thereupon the provisions of sub-section (*1*) shall as far as may be apply.

(*3*) In computing the period for which a person is ordered to be detained in a Certified Institution there shall be included the period for which he is detained in a Receiving Centre under this section.

Medical examination and detention of lepers and lunatics.

25. (*1*) After a person is received in a Receiving Centre under section 24, the officer-in-charge of the Receiving Centre shall cause him to be examined, as soon as may be, by such Medical Officer, as the Provincial Government by general or special order directs.

(*2*) The Medical Officer shall make his report to the officer-in-charge of the Receiving Centre stating *inter alia*—

(*a*) the age and sex of the person,

(*b*) whether the person is a leper suffering from contagious leprosy or not,

(*c*) from what, if any, communicable disease other than leprosy the person is suffering,

[1] Sub-sections (*2*) to (*5*) were substituted for the original sub-sections (*2*) to (*4*) by Bom. 53 of 1947, s. 2 (*5*). (*b*).

[2] This word and figure were substituted for the figures and word "9 or 23", *ibid.*, s. 2 (*6*).

(*d*) whether the person is an idiot or of unsound mind, and

(*e*) what is the general state of health and bodily condition of the person and for which kind of work, if any, he is fit.

(*3*) Where the medical report states that the beggar is a contagious leper or a lunatic, the officer-in-charge of the Receiving Centre shall forthwith forward the report to the Court which passed the order of detention. The court shall thereupon examine the Medical Officer as a witness and shall reduce the examination to writing. If after the examination and upon such further enquiry, if any, as it thinks fit, the court is of opinion that the beggar is a contagious leper or a lunatic it shall record a finding to that effect and shall direct that the detention already ordered shall be undergone by the beggar,—

(*i*) if a contagious leper, in a leper asylum appointed under section 3 of the Lepers Act, 1898, and which has been certified to be a Certified Institution under sub-section (*1*) of section 11 ; III of 1898.

(*ii*) if a lunatic, in an asylum established or licensed under section 84 of the Indian Lunacy Act, 1912, and which has been certified to be a Certified Institution under sub-section (*1*) of section 11 ; IV of 1912.

(*iii*) if neither a contagious leper nor a lunatic, in any other Certified Institution.

(*iv*) Notwithstanding anything contained in the Lepers Act, 1898, or the Indian Lunacy Act, 1912, if any leper asylum appointed under section 3 of the Lepers Act, 1898, or any asylum established or licensed under section 84 of the Indian Lunacy Act, 1912, is certified to be a Certified Institution under sub-section (*1*) of section 11, the Superintendent of such leper asylum or the person in charge of such lunatic asylum, as the case may be, shall also have authority to detain persons sent thereto in accordance with a direction of the court under this section. III of 1898. IV of 1912. III of 1898. IV of 1912.

26. Any person who leaves a Receiving Centre without the permission of the officer-in-charge thereof or who leaves a Certified Institution without the permission of the Superintendent in charge thereof or fails to return thereto after the expiry of the period of absence permitted under sub-section (*1*) of section 20 may be arrested by a police officer without a warrant [1][or by an officer of the Receiving Centre or Certified Institution authorized in this behalf by the Provincial Government] and sent back to the Receiving Centre or Certified Institution, as the case may be. Arrest of person escaping from Receiving Centre or Certified Institution.

27. The Provincial Government may direct any person detained in a Certified Institution to be transferred therefrom to any Institution of a like nature in any other part of British India or in any Indian State in respect of which provision similar to that in the Province of Bombay is made by the Provincial Government of that part or by the Government of that Indian State under any law in force therein : Transfers between Certified Institution and Institution of like nature in different parts of India.

Provided that no person shall be transferred under this section to any other Province or Indian State without the consent of the Government of that other Province or Indian State.

28. (*1*) Every person ordered to be detained in a Certified Institution under this Act shall at any time allow his finger prints to be taken by the Commissioner of Police or any officer empowered by him in this behalf in the [2][Greater Bombay] and by the District Magistrate or any Officer empowered by him in this behalf elsewhere. Power to take finger prints.

[1] These words were inserted by Bom. 53 of 1947, s. 2 (7).

[2] These words were substituted for the words "City of Bombay, *ibid.*, s. 2 (5).

(*2*) Whoever refuses to allow his finger prints to be taken under sub-section (*1*) shall on conviction be liable to have his period of detention in a Certified Institution not exceeding three months converted to a term of imprisonment extending to a like period.

(*3*) The sentence of imprisonment ordered under sub-section (*2*) shall be executed in the same manner as a sentence passed under section 6.

Seizure and disposal of animals exposed or exhibited for obtaining or extorting alms.

[1][**28A.** (*1*) Any police officer or other person effecting under sub-section (*1*) of section 4 the arrest of a person who was found begging may seize any animal the sore, wound, injury, deformity or disease of which was exposed or exhibited by such person with the object of obtaining or extorting alms.

(*2*) The police officer or other person effecting the arrest may remove such animal to any infirmary appointed under section 6B of the Prevention of Cruelty to Animals Act, 1890, for detention therein pending its production before a court. XI of 1890.

(*3*) The court before which the person found begging is brought may direct that the animal shall be treated and cared for in such infirmary until it is fit for discharge or that it shall be sent to a *pinjrapole*, or, if the veterinary officer in charge of the area in which the animal is found or such other veterinary officer as has been authorised by the rules made under section 15 of the Prevention of Cruelty to Animals Act, 1890, certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed; and the court may also order that, after release from the infirmary, the animal may be confiscated. XI of 1890.

(*4*) An animal sent for care and treatment to an infirmary shall not, unless the court directs that it shall be sent to a *pinjrapole* or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the veterinary officer in charge of the area in which the infirmary is situated or such other veterinary officer as has been authorized by rules made under section 15 of the Prevention of Cruelty to Animals Act, 1890.] XI of 1890.

Offences to be cognizable and non-bailable.

29. The offences under sections 6, 9 and 23 of this Act shall be cognizable and non-bailable.

Persons to be deemed public servants.

30. All persons empowered to perform any function under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Bonds taken under Act V of 1898.

31. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. V of 1898.

Appeals.

32. For the purposes of appeal and revision under the Code of Criminal Procedure, 1898, an order of detention under this Act (including an order of detention under section 5), shall be deemed to be a sentence of imprisonment for the same period. V of 1898.

Rules.

33. (*1*) The Provincial Government may by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner of authorizing a purpose under sub-clause (*e*) (*ii*) of clause (*i*) of section 2 ;

[1] This section was inserted by Bom. 53 of 1947, s. 2 (*9*).

[1][(*aa*) the manner in which the enquiry as regards birth and domicile shall be made under sub-section (*4*) of section 5 ;]

(*b*) the manner of keeping persons arrested under sub-section (*3*) of section 4 or section 7 ;

(*c*) the manner of making summary inquiry under sub-section (*1*) of section 5 ;

(*d*) the conduct of business by Advisory Committees ;

(*e*) the manner of appointing a visiting committee under section 12 ;

(*f*) the date before which payment shall be made under sub-section (*1*) of section 14 ;

[2][(*g*) the manner in which the effects and the money and valuables referred to in section 16 shall be disposed of ;]

(*h*) the management and discipline of persons detained in a Receiving Centre or Certified Institution including the imposition of manual or other work and the awarding of punishment for breach of any rule made under this clause ;

(*i*) the conditions subject to which the Chief Inspector may direct transfers under section 19 ;

(*j*) the conditions subject to which a person may be released on licence under section 20 ;

(*k*) the conditions subject to which a licence may be revoked under section 21 ;

(*l*) the manner of medical examination of beggars ;

(*m*) any other matter which is required to be or may be prescribed.

Repeal.

34. (*1*) On the date on which this Act comes into force in the [3][Greater Bombay], in the City of Bombay Police Act, 1902, —

Bom. IV of 1902.

(*i*) in sub-section (*2*) of section 27 for the figures " 121 " the following shall be substituted, namely :—

" 6, 9 or 23 of the Bombay Beggars Act, 1945 ", and

Bom. XXIII of 1945.

(*ii*) section 121 shall be repealed.

(*2*) On the date on which this Act comes into force in any area outside the [3][Greater Bombay], sub-section (*2*) of section 61 of the Bombay District Police Act, 1890, shall be repealed in its application to the said area.

Bom. IV of 1890.

Savings.

35. Nothing in this Act shall apply to vagrants within the meaning of the European Vagrancy Act, 1874.

IX of 1874.

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[1] This clause was inserted by Bom. 53 of 1947, s. 2 (*10*) (*a*).

[2] This clause was substituted for the original, *ibid.*, s. 2 (*10*) (*b*).

[3] These words were substituted for the words "City of Bombay", *ibid.*, s. 2 (*11*).

THE BOMBAY SALES TAX ACT, 1946.

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SCHEDULE I.

SCHEDULE II.

¶BOMBAY ACT No. V OF 1946.[1]

[THE BOMBAY SALES TAX ACT, 1946.]

[*8th March 1946.*]

Amended by Bom. 17 of 1946 ;
" " " 25 of 1947 ;
" " " *24 of 1948 ;
" " " †52 of 1948 ;
" " " 1 of 1949.

An Act to provide for the levy of a tax on the sale of goods in the Province of Bombay.

WHEREAS it is expedient to provide for the levy of a tax on the sale of goods in the Province of Bombay ; Preamble.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

26, Geo 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. (*1*) This Act may be called the Bombay Sales Tax Act, 1946. Short title, extent and commencement.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) This section shall come into force at once and the rest of this Act shall come into force on such date as the Provincial Government may, by notification in *Official Gazette*, appoint.

2. In this Act unless there is anything repugnant in the subject or context,— Definitions.

(*a*) " Commissioner " means the Commissioner of Sales Tax appointed under sub-section (*1*) of section 3 ;

(*b*) [2]* * * * * * *

(*c*) " dealer " means any person who carries on the business of selling or supplying goods in the Province of Bombay, whether for commission, remuneration or otherwise and includes any society, club or association which sells or supplies goods to its members ;

Explanation.—The manager or agent of a dealer who resides outside the Province of Bombay and carries on the business of selling or supplying goods in the Province of Bombay shall, in respect of such business, be deemed to be a dealer for the purposes of this Act ;

¶This Act, as amended by Bom. 17 of 1946 and Bom. 25 of 1947, was repealed and re-enacted by Bom. 24 of 1948, s. 2.

[1] For the Statement, see *Bombay Government Gazette*, Pt. IV, 1946, page 99.

[2] Clause (*b*) was deleted by Bom. 25 of 1947, s. 2 (*a*).

*Section 17 of this Act is as follows :—

17. *Saving.*—All certificates of registration granted under the said Act shall be deemed to be granted under the said Act as herein re-enacted.

†This Act came into force on the 1st November 1948. (Please see G. N., F. D., No. 6495/33-S.T. (1), dated the 28th October 1948, in *Bombay Government Gazette*, Pt. IV-B, 1948, page 972 A). Section 4 of this Act is as follows :—

4. *Saving.*—Nothing in this Act shall be deemed to affect any liability of a dealer to pay the amount of the general tax in respect of bullion or specie at the rate of one-half of an anna in a rupee on his taxable turnover before the coming into force of this Act or to entitle such dealer to a refund of tax already paid by him in respect of such goods for any period prior to the said date.

(*d*) " goods " means all kinds of movable property other than actionable claims, stocks, shares and securities, and includes all materials, articles and commodities, [1]* * ;

(*e*) " prescribed " means prescribed by rules made under this Act ;

(*f*) " registered dealer " means a dealer registered under this Act ;

(*g*) " sale " with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration [2]* * but does not include a mortgage, hypothecation, charge or pledge ;

Explanation 1.—A transfer of goods on hire, purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains a title to any goods as security for payment of the price, be deemed to be a sale ;

Explanation 2.—Notwithstanding anything to the contrary in the Indian Sale of Goods Act, 1930, the sale of any goods which are actually in the Province of Bombay at the time when the contract for sale (as defined in that Act) is made in respect thereof, shall, wherever the said contract of sale is made, be deemed for the purposes of this Act to have taken place in the Province of Bombay ; III of 1930.

(*h*) " sale price " means the amount payable to a dealer as valuable consideration for—

(*i*) the sale or supply of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of the goods at the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged ; [3]*

[4](*ii*) ;

(*i*) " Tribunal " means the Tribunal constituted under section 4 ;

(*j*) " turnover " means the aggregate of the amounts of sale-prices received and receivable by a dealer in respect of sale or supply of goods [5]* * * effected or made during a given period [6][after deducting the amounts, if any, refunded by the dealer to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period] ; and

(*k*) " year " means the financial year.

Taxing authorities.

3. (*1*) For carrying out the purposes of this Act, the Provincial Government may appoint any person to be a Commissioner of Sales Tax, and such other persons to assist him as the Provincial Government thinks fit.

(*2*) Persons appointed under sub-section (*1*) shall exercise such powers as may be conferred and perform such duties as may be imposed on them by or under this Act.

(*3*) All persons appointed under sub-section (*1*) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Tribunal.

4. (*1*) The Provincial Government shall constitute a Tribunal to exercise the functions conferred on the Tribunal by or under this Act.

(*2*) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

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[1] The words " whether or not to be used in the construction, fitting out, improvement or repair of immovable property " were deleted by Bom. 25 of 1947, s. 2 (*b*).

[2] The words " including a transfer of property in goods involved in the execution of a contract, " were deleted, *ibid.*, s. 2. (*c*).

[3] The word " or " was deleted, *ibid.*, s. 2 (*d*).

[4] Paragraph (*ii*) was deleted, *ibid.*, s. 2 (*d*).

[5] The words " or carrying out of any contract," were deleted, *ibid.*, s. 2 (*c*) (*i*).

[6] These words were inserted, *ibid.*, s. 2 (*c*) (*ii*).

[1][(*2A*) Where the Tribunal consists of three members, any two members of the Tribunal shall form the quorum for the disposal of its business.]

(*3*) Any vacancy in the membership of the Tribunal shall be filled up by the Provincial Government.

(*4*) Subject to the previous sanction of the Provincial Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(*5*) The regulations made under sub-section (*4*) shall be published in the *Official Gazette*.

Incidence of taxation.

5. (*1*) Subject to the provisions of sections 6 and 7 and with effect from such date as the Provincial Government may, by notification in the *Official Gazette* appoint, being not earlier than thirty days after the date of the said notification, every dealer whose gross turnover during the year immediately preceding the commencement of this Act, [2][in respect of sales or supplies of goods exceeds—

[3][(*a*) in the case of a dealer who brings any goods into the Province of Bombay [4][from any territory other than that notified by the Provincial Government in the *Official Gazette*], whether by land, water or air, Rs. 10,000, provided [5][the value of] goods is not less than Rs. 1,000 ;]

(*b*) in the case of a manufacturer or processor Rs. 10,000, and

(*c*) in the case of any other dealer Rs. 30,000,

Shall be liable to pay tax under this Act on his turnover in respect of sales or supplies of goods effected after the date so notified.]

(*2*) Every dealer to whom sub-section (*1*) does not apply shall be liable to pay tax under this Act with effect from [6][the 1st April of the year during which] [7][* * * * his turnover in respect of sales or supplies of goods exceeds the limits specified in sub-section (*1*)] :

[8][Provided that such dealer shall not be liable to pay the tax under this Act during such year in respect of his turnover up to the limits specified in sub-section (*1*)].

(*3*) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover [9][in respect of sales or supplies of goods has failed to exceed the limits specified in sub-section (*1*)] ; and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the tax shall cease.

(*4*) Every dealer whose liability to pay tax has ceased under the provisions of sub-section (*3*) shall again be liable to pay tax under this Act with effect from the [10][1st April of the year during which] his gross turnover [11][in respect of sales or supplies of goods again exceeds the limits specified in sub-section (*1*)] :

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[1] Sub-section (*2A*) was added by Bom. 24 of 1948, s. 3.

[2] These words, figures, brackets and letters were substituted for the original words and figures by Bom. 25 of 1947, s. 3 (*1*).

[3] Clause (*a*) was substituted by Bom. 24 of 1948, s. 4.

[4] These words were inserted by Bom. 1 of 1949, s. 2 (*i*) (*a*).

[5] These words were substituted for the words "his gross turnover in respect of", *ibid.*, s. 2 (*i*) (*b*).

[6] These words, figure and letters were substituted for the original by Bom. 1 of 1949, s. 2 (*ii*) (*a*).

[7] These words, brackets and figure were substituted for the original by Bom. 25 of 1947, s. 3 (*2*).

[8] This proviso was added by Bom. 1 of 1949, s. 2 (*ii*) (*b*).

[9] These words, brackets and figure were substituted for the original by Bom. 25 of 1947, s. 3 (*3*).

[10] The figure, letters and words were substituted for the original by Bom. 1 of 1949, s. 2 (*iii*) (*a*).

[11] These words, brackets and figure were substituted for the original by Bom. 25 of 1947, s. 3 (*4*).

[1][Provided that such dealer shall not be liable to pay the tax under this Act during such year in respect of his turnover up to the limits specified in sub-section (*1*)].

Levy and rates of tax.

[2][6. (*1*) The tax payable by a dealer under this Act shall consist of—

(*a*) a general tax at the rate of one half of an anna in the rupee levied on his taxable turnover in respect of sales or supplies of goods other than the goods specified in Schedule I:

[3][Provided that in respect of sales or supplies of bullion or specie, the general tax shall, subject to such conditions and restrictions as may be prescribed, be levied on the taxable turnover of a dealer at the rate of one-fourth per cent.] and

(*b*) a special tax at the rate of one anna in the rupee levied on his taxable turnover in respect of sales or supplies of goods specified in Schedule I:

[4][Provided that the general or special tax payable by a dealer on his taxable turnover in respect of sales or supplies of goods which are despatched or removed by him or on his behalf or by the purchaser of such goods to such place outside the Province as may be notified by the Provincial Government in the *Official Gazette* within such period and subject to such terms and conditions as may be prescribed shall be levied at such rate not exceeding half the rate of the tax leviable under this section as the Provincial Government may by notification in the *Official Gazette* specify.]

(*2*) The Commissioner may, in such circumstances and subject to such conditions as may be prescribed, accept from any dealer, in lieu of the amount of the general tax payable during any period, a lump sum by way of composition determined in the prescribed manner.

(*3*) The "taxable turnover" for the purposes of clause (*a*) or (*b*), as the case may be, of sub-section (*1*) shall be determined in accordance with the following Rules:—

Rule I.—From the gross turnover of the dealer in respect of all his sales or supplies of goods, including goods specified in Schedule I, during any period of his liability to pay the tax, there shall first be deducted his turnover during that period in respect of—

(*i*) sales or supplies of any goods declared, from time to time, as tax-free under section 7;

(*ii*) sales or supplies to a registered dealer of goods certified by him as being intended for resale by him or of goods specified in the purchasing dealer's certificate of registration as being intended for use by him in the manufacture or processing of any goods for sale or supply, or sales or supplies to a registered dealer of containers and other materials for the packing of such goods:

Provided that where such goods are utilised by him for purposes other than those specified in his certificate of registration, the price of goods so utilised shall be included in his taxable turnover;

(*iii*) [5] * * * * * *

(*iv*) such other sales as may be prescribed.

Rule II.—From that part of the balance remaining after making deductions under Rule I which is in respect of the sales or supplies of goods other than those specified in Schedule I, [6][and bullion and specie] there shall be deducted one-thirty-third of such part, and the remainder shall be the taxable turnover for the purposes of clause (*a*) of sub-section (*1*).

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[1] This proviso was added by Bom. 1 of 1949, s. 2 (*iii*) (*b*).
[2] This section was substituted for the original by Bom. 24 of 1948, s. 5.
[3] This proviso was inserted by Bom. 52 of 1948, s. 2 (*i*).
[4] This proviso was added by Bom. 1 of 1949, s. 3 (*a*).
[5] This clause was deleted by Bom. 1 of 1949, s. 3 (*b*) (*i*).
[6] These words were inserted by Bom. 52 of 1948, s. 2 (*ii*).

Rule III.—From that part of the said balance which is in respect of the sales or supplies of goods specified in Schedule I, there shall be deducted one-seventeenth of such part, and the remainder shall be the taxable turnover for the purposes of clause (*b*) of sub-section (*1*)] :

[1][Provided that the deductions under Rules II and III in respect of sales and supplies of goods referred to in the proviso to sub-section (*1*) shall be made at such rate as may be prescribed.]

Tax-free goods.

7. (*1*) No tax shall be payable under this Act on the [2][sales or supplies] of goods specified in the first column of [3][Schedule II] subject to the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof.

(*2*) The Provincial Government, after giving by notification in the *Official Gazette* not less than one month's notice of its intention so to do, may by like notification add [4][to the said Schedule II] [5][or enlarge any entry therein] and thereupon the Schedule shall be deemed to be amended accordingly.

Registration of dealers.

8. (*1*) No dealer shall, while being liable to pay tax under section 5 of this Act, carry on business as a dealer unless he has been registered and possesses a registration certificate :

Provided that for the purposes of this sub-section the gross turnover shall be calculated without making the deductions referred to in sub-sections [6](*3*) of section 6.

(*2*) Every dealer required by sub-section (*1*) to be registered shall make application in that behalf in the prescribed manner to the prescribed authority.

(*3*) If the said authority is satisfied that an application for registration is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form [7]* * * *.

(*4*) The prescribed authority may, from time to time amend any certificate of registration after considering the information furnished under section 17 or otherwise received.

(*5*) When any dealer has been convicted or has paid composition money under section 26, in respect of any contravention of sub-section (*1*) of this section, the prescribed authority shall register such dealer and grant him a certificate of registration, and such registration shall take effect as if it had been made under sub-section (*3*) of this section on the dealer's application.

(*6*) When—

(*a*) any business in respect of which a certificate has been granted under this section has been discontinued or transferred,

or

(*b*) the gross turnover of any such business has during each of three consecutive years failed to exceed [8][the limits specified in sub-section (*1*) of section 5] [9][and

[1] This proviso was added by Bom. 1 of 1949, s. 3 (*b*) (*ii*).
[2] These words were substituted for the word "sale" by Bom. 24 of 1948, s. 6 (*1*) (*a*).
[3] The word and figures were substituted for the original, *ibid.*, s. 6 (*1*) (*b*).
[4] These words and figures were substituted for the words "to the Schedule" by Bom. 24 of 1948, s. 6 (*2*).
[5] The words "or enlarge any entry therein" were inserted by Bom. 25 of 1947, s. 5.
[6] These brackets and figure were substituted for the original by Bom. 1 of 1949, s. 4 (*i*).
[7] The words "which shall specify the class or classes of goods in which at the time of the grant of the said certificate the dealer carries on business and such other particulars as may be prescribed" were deleted by Bom. 25 of 1947, s. 6 (*1*).
[8] These words, figures and brackets were substituted for the letters and figures "Rs. 30,000", *ibid.*, s. 6 (*2*).
[9] These words were inserted by Bom. 1 of 1949, s. 4 (*ii*).

the dealer has applied in the prescribed manner for cancellation of his registration the prescribed authority shall cancel the registration with effect from the prescribed date.

Voluntary registration of dealers.

[1][8A. (*1*) If on the application of any dealer the authority prescribed for the purpose of section 8 is satisfied, that his gross turnover during a year has exceeded or is likely to exceed Rs. 10,000, the said authority may notwithstanding that the dealer may not be liable to pay tax under section 5 register the dealer and grant him a certificate of registration in the prescribed manner.

(*2*) The provisions of sub-sections (*3*) and (*4*) and clause (*a*) of sub-section (*6*) of section 8 shall apply in respect of applications for registration under this section.

(*3*) Every dealer who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act [2][notwithstanding anything contained in section 5].

(*4*) The registration of a dealer upon application made under this section shall be in force for a period of not less than three complete years and shall remain in force thereafter unless cancelled under the provisions of this Act.

(*5*) Subject to the provisions of sub-section (*4*), a dealer registered upon application made under this section may apply in the prescribed manner not less than six months before the end of a year to the authority which granted him his certificate of registration for the cancellation of such registration to take effect at the end of the year in which the application for such cancellation is made ; and the said authority shall, unless the dealer is liable to pay tax under section 5, cancel the registration accordingly.]

Publication of the list of registered dealers.

9. The Provincial Government shall, as soon as may be after the commencement of this Act, publish in the prescribed manner a list of the names and addresses of registered dealers together with a description of the goods in accordance with their certificates of registration and thereafter shall, in like manner, from time to time publish—

(*a*) such particulars of any dealer who is subsequently registered or whose certificate of registration is amended or whose registration is cancelled, as soon as may be after such registration, amendment or cancellation ; and

(*b*) a consolidated list embodying the modifications in the first list published under this section.

Returns.

10. (*1*) Every such dealer as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed.

(*2*) If any dealer having furnished a return under sub-section (*1*) discovers any omission or wrong statement therein, he may furnish a revised return, [3][before the expiry of the quarter next following the period to which the return relates].

Assessment of tax.

11. [4][(*1*) (*a*) The amount of tax due from a registered dealer shall in the case of first assessment be assessed in respect of such period not exceeding twelve months as the Commissioner may determine.

(*b*) In the case of subsequent assessments the amounts shall be assessed each for periods not less than twelve months, provided that if the dealer has at any date discontinued or transferred his business or ceased to be liable to pay the tax, the amount shall be assessed for the period till that date.]

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[1] Section 8A was inserted by Bom. 25 of 1947, s. 7.

[2] These words and figure were added by Bom. 24 of 1948, s. 7.

[3] These words were substituted for the words "at any time before assessment is made in the prescribed manner" by Bom. 25 of 1947, s. 8.

[4] Sub-section (*1*) was added by Bom. 24 of 1948, s. 8.

[1](*1A*) If the Commissioner is satisfied without requiring the presence of a registered dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(*2*) (*a*) If the Commissioner is not satisfied without requiring the presence of a registered dealer who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns.

(*b*) On the day specified in the notice or as soon afterwards as may be, the Commissioner shall, after hearing such evidence as the dealer may produce, and such other evidence as the Commissioner may require on specified points, assess the amount of tax due from the dealer.

(*3*) If a registered dealer, having furnished returns in respect of a period, fails to comply with [2]****the terms of a notice issued under sub-section (*2*), the Commissioner shall assess, to the best of his judgment, the amount of tax due from the dealer.

(*4*) If a registered dealer does not furnish returns in respect of any period by the prescribed date, the Commissioner shall after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgment, the amount of tax, if any, due from the dealer.

(*5*) If upon information which has come into his possession, the Commissioner is satisfied that any dealer has been liable to pay tax under this Act in respect of any period [3][but has] failed to apply for registration, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgment the amount of tax, if any, due from the dealer in respect of such period and all subsequent periods and [4][in cases where such dealer has wilfully failed to apply for registration] the Commissioner may direct that the dealer shall pay, by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(*6*) Any assessment made under this section shall be without prejudice to any prosecution instituted for an offence under this Act.

[5][**11A**. If in consequence of any information which has come into his possession, the Commissioner is satisfied that any turnover in respect of sales or supplies of any goods chargeable to tax under this Act has escaped assessment in any year or has been under-assessed or assessed at a lower rate or any deductions have been wrongly made therefrom the Commissioner may, in any case where he has reason to believe that the dealer has concealed the particulars of such sales or supplies or deliberately furnished incorrect returns, at any time within five years, and in any other case, at any time within three years, of the end of that year, serve on the dealer liable to pay the tax in respect of such turnover a notice containing all or any of the requirements which may be included in a notice under sub-section (*2*) of section 11 and may proceed to assess or re-assess the amount of tax from such dealer and the provisions of this Act shall apply accordingly as if the notice were a notice served under that sub-section : **Turnover escaping assessment.**

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[1] The original sub-section (*1*) was re-numbered as sub-section (*1A*), *ibid.*
[2] The word "all" was deleted by Bom. 25 of 1947, s. 9.
[3] These words were substituted for the original by Bom. 1 of 1949, s. 5 (*i*).
[4] These words were inserted, *ibid.*, s. 5 (*ii*).
[5] This section was inserted by Bom. 1 of 1949, s. 6.

Provided that the amount of tax shall be assessed after making the deductions permitted under this Act at the rate at which it would have been assessed had the turnover not escaped assessment or full assessment, as the case may be.]

Payment and recovery of tax.

12. (*1*) The tax payable under this Act shall be paid in the manner hereinafter provided at such intervals as may be prescribed.

(*2*) Before any registered dealer furnishes the returns required by sub-section (*1*) of section 10, he shall, in the prescribed manner, pay into a Government treasury the full amount of tax due from him under this Act according to such returns and shall furnish, along with the returns, a receipt from such treasury showing the payment of such amount.

(*3*) Before any registered dealer submits a revised return in accordance with sub-section (*2*) of section 10 which shows a greater amount of tax to be due than was payable in accordance with the original return, he shall pay into a Government treasury the extra amount of tax and shall furnish along with the revised return a receipt from such treasury showing payment of the extra amount.

[1][(*3A*) If the tax payable under this Act is not paid by any dealer within the prescribed time, the dealer shall pay, by way of penalty in addition to the amount of tax a sum not exceeding three-fourth per cent. of the amount of tax for every month after the expiry of the prescribed period during which he continues to make default in the payment of the tax. The penalty so levied shall be without prejudice to any prosecution instituted for an offence under this Act.]

(*4*) [2](*i*) The amount of tax—

(*a*) due where the returns are furnished without receipt showing full payment thereof, or

(*b*) assessed under sub-sections (*1*), [3][(*1A*)], (*2*), (*3*) and (*4*) of section 11 less the sum, if any, already paid by the dealer in respect of the said period, or

(*c*) assessed under sub-section (*5*) of section 11 together with the penalty directed to be paid under that sub-section, [4][and

(*ii*) the amount of the penalty payable under sub-section (*3A.*),]

shall be paid by the dealer into a Government treasury by such date as may be specified in a notice issued by the Commissioner for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice:

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty (if any) by instalments.

(*5*) Any amount of tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (*4*) shall be recoverable as an arrear of land revenue.

Prohibition against collection of tax in certain cases.

[5][**12A.** (*1*) No person shall collect any amount by way of tax under this Act in respect of sales or supplies of any goods which are declared, from time to time, under section 7 as sales or supplies on which the tax is not payable.

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[1] This sub-section was inserted, *ibid.*, s. 7 (*a*).
[2] Sub-section (*4*) was renumbered as 4 (*i*), *ibid.*, s. 7 (*b*).
[3] These brackets, figure and letter were inserted by Bom. 24 of 1948, s. 9.
[4] This portion was inserted by Bom. 1 of 1949, s. 7 (*b*).
[5] This section was inserted by Bom. 1 of 1949, s. 8.

(*2*) No person who is not a registered dealer shall in respect of sales or supplies of any goods collect from the purchaser any amount by way of tax under this Act except in cases where he is required to do so in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force.

(*3*) Every registered dealer whose gross turnover exceeds Rs. 60,000 a year shall issue a bill or cash memorandum signed and dated by him or his servant, manager or agent to the purchaser in respect of the goods sold or supplied by him showing the particulars of the goods and the price at which the goods are sold or supplied and shall keep the counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than two years from such date.

(*4*) If any person collects any amount by way of tax in contravention of the provisions of sub-section (*1*) or (*2*) or if any registered dealer collects any amount by way of tax in excess of the amount payable by him under this Act, the amount so collected shall, without prejudice to any prosecution that may be instituted against such person or dealer for an offence under this Act be forfeited to the Provincial Government and such person or dealer, as the case may be, shall within the prescribed period, pay such amount into a Government treasury and in default of such payment, the amount shall be recovered as an arrear of land revenue.]

Refunds.

13. The Commissioner shall, in the prescribed manner, refund to a registered dealer applying in this behalf any amount of tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer, by deduction of such excess from the amount of tax due in respect of any other period :

Provided that no claim to refund of any tax paid under this Act shall be allowed unless it is made within twenty-four months from the date on which the order of assessment was passed or within twelve months of the final order passed on appeal, revision, or reference in respect of the order of assessment, which ever period is later.

Accounts.

14. [1](*1*) Every registered dealer and every other dealer on whom a notice has been served to furnish returns under sub-section (*1*) of section 10 shall keep a true account of the value of goods bought and sold by him, and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts (including records of sales, [2][necessary for the purposes of proper assessment] as he may, subject to anything that may be prescribed in that behalf, in writing direct.

[3][(*2*) The Commissioner may, subject to such conditions or restrictions as may be prescribed in this behalf, by notice in writing direct any dealer or by notification in the *Official Gazette* direct any class of dealers to maintain accounts and records showing the details regarding their purchases, sales or deliveries of goods in such form and in such manner as may be specified by him.]

Production and inspection of accounts and documents, and search of premises.

15. (*1*) The Commissioner may, subject to such conditions as may be prescribed require any dealer to produce before him any accounts or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods, by the dealer [4][or any other information, relating to his business] as may be necessary for the purposes of this Act.

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[1] Section 14 was renumbered as 14(*1*), *ibid.*, s. 9.
[2] These words were inserted by Bom. 25 of 1947, s. 10.
[3] This sub-section was added by Bom. 1 of 1949, s. 9.
[4] These words were inserted, *ibid.*, s. 10.

(*2*) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Commissioner.

(*3*) If the Commissioner has reason to suspect that any dealer is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(*4*) For the purposes of sub-section (*2*) or sub-section (*3*) the Commissioner may enter and search any place of business or warehouse of any dealer.

Delegation of Commissioner's functions.

16. Subject to such conditions and restrictions as the Provincial Government may, by general or special order, impose, the Commissioner may, by order in writing, delegate any of his powers and duties under this Act to any persons appointed under section 3 to assist him :

[1][Provided that the powers under sub-sections (*3*) and (*4*) of section 15 shall not be delegated to any officer below the rank of a Sales Tax Officer.]

Dealer to declare name of manager of his business.

[2][**16A.** Every dealer who is liable to pay the tax under this Act and who is a Hindu undivided family, an association or a club, society, firm or company or who carries on business as the guardian or trustee or otherwise on behalf of another person shall within the prescribed period send to the prescribed authority a declaration in the prescribed manner stating the name of the person who shall be deemed to be the manager of such dealer's business for the purposes of this Act. Such declaration may be revised from time to time.]

Information to be furnished regarding changes of business.

17. If any dealer to whom the provisions of sub-section (*1*) of section 10 apply—

(*a*) sells or otherwise disposes of his business or any part of his business, [3]or effects [4]*or comes to know of any other change in the ownership of the business or

(*b*) discontinues his business or changes his place of business or opens a new place of business, or

(*c*) changes the name or nature of his business or effects any change in the classes of goods [5][manufactured or processed by him,]

he shall, within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Tax payable by transferee of business.

18. [6](*1*) When the ownership of the business of [7][a dealer liable to pay tax under this Act] is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee as if he were [8][the dealer liable to pay such tax]; and the transferee shall within thirty days of the transfer apply for registration under section 8 [9][or 8A, as the case may be, unless he already holds a certificate of registration.]

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[1] This proviso was added by Bom. 25 of 1947, s. 11.
[2] This section was inserted by Bom. 1 of 1949, s. 11.
[3] The comma was put by Bom. 25 of 1947, s. 12 (*1*).
[4] The comma was deleted, *ibid.*
[5] These words were substituted for the original, *ibid.*, s. 12 (*2*).
[6] This section was renumbered as sub-section (*1*), *ibid.*, s. 13(*1*).
[7] These words were substituted for the original, by Bom. 1 of 1949, s. 12(*i*).
[8] These words were substituted for the original, *ibid.*, s. 12 (*ii*).
[9] This portion was added, *ibid.*, s. 12 (*iii*).

[1][(*2*) When a registered dealer transfers the ownership of a part of his business the transferor shall be liable to pay tax under this Act in respect of the stock of goods transferred along with that part of his business, which is not so transferred, as if the goods had been sold by him, unless the transferee holds or obtains within the prescribed period a certificate of registration.

(*3*) When a firm which is a registered dealer is dissolved, each of such partners shall, unless he holds or obtains within the prescribed period a certificate of registration, be liable to pay tax under this Act in proportion to his share of goods in the partnership, as if the goods had been sold by him.

(*4*) When a dealer to whom a business or part of a business has been transferred, or who has obtained the whole or part of the stock relating to the business of a partnership which has been discontinued or dissolved, obtains a certificate of registration under sub-sections (*1*) to (*3*) he shall be liable to pay the tax on the sales or supplies of goods effected by him with effetct from the date of such transfer of business, discontinuance or dissolution of the partnership, as the case may be.]

[2][**18A.** When a certificate of registration is cancelled under sub-section (*6*) of section 8 in any case other than that of a dissolution of a firm, [(a)][or entire transfer of the business of a dealer], the dealer shall be liable to pay tax on his stock of goods remaining unsold at the time of cancellation of the certificate.] **Liability to tax on cancellation of certificate.**

19. If any question arises (otherwise than in a proceeding before a Court) whether or not, for the purposes of this Act,— **Power of Commissioner to determine disputes.**

(*a*) any person or firm or any branch or department of any firm is a dealer, or

(*b*) any transaction is a sale [3]**, or

(*c*) any particular dealer is liable to registration, or

(*d*) any particular goods purchased by a registered dealer are covered by his certificate of registration, or

(*e*) any tax is payable in respect of any particular sale [3]**, or

(*f*) any goods or classes of goods should be specified in the certificate of registration of any dealer [4]***,

the Commissioner shall [5][make an order determining] such question :

Provided that the Commissioner [6][may in such order direct] that any such determination shall not affect the liability of any dealer under this Act in respect of any [7]** sale effected prior to the date of such determination.

[8][**19A.** For the purposes of this Act,— **Powers of Court to Tribunal and Commissioner and subordinate Officers.**

(*1*) the Tribunal and the Commissioner shall have the same powers as are vested in Courts in respect of—

(*a*) proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses ;

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[1] Sub-sections (*2*), and (*3*) (*4*) were inserted by Bom. 25 of 1947, s. 13 (*2*).
[2] Section 18-A was added by Bom. 25 of 1947, s. 14.
(*a*) These words were inserted by Bom. I of 1949, s. 13.
[3] The words " or contract " were deleted by Bom. 25 of 1947, s. 15.
[4] The words, figures and brackets " under sub-section (*3*) of section 8 " were deleted, *ibid.*
[5] These words were substituted for the word " determine " by Bom. 24 of 1948, s. 10 (*1*).
[6] These words were substituted for the words " may direct", *ibid.*, s. 10 (*2*).
[7] The words " contract entered into or " were deleted by Bom. 25 of 1947, s. 15.
[8] Section 19-A was substituted by Bom. 24 of 1948, s. 11.

(*2*) in the case of any affidavit made for the purposes of this Act, any officer appointed by the Tribunal or the Commissioner may administer the oath to the deponent.]

Bar to certain proceedings.

20. Save as is provided in section 23, no assessment made and no order passed under this Act or the rules made thereunder by the Commissioner or any person appointed under section 3 to assist him shall be called into question in any Civil Court, and save as is provided in [1][sections 21 and 22], no appeal or application for revision shall lie against any such assessment or order.

Appeal.

21. (*1*) Within sixty days from the making of an order of assessment either with or without penalty or the passing of any other order under this Act, any dealer may in the prescribed manner, appeal to the prescribed authority against such assessment or other order :

Provided that no appeal against an order of assessment, with or without penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred.

(*2*) Subject to such rules of procedure as may be prescribed the said authority may pass such orders on the appeal as such authority may think fit.

(*3*) Every order passed in appeal under this section shall, subject to the provisions of sections 22 and 23, be final.

Revision.

22. (*1*) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and, subject as aforesaid the Tribunal may, [2][upon application] revise any order passed by the Commissioner :

[3][Provided that no application under this sub-section shall be entertained if it is not made within a period of [4][four months] from the date of the order :]

Provided [5][further] that before rejecting any application for the revision of any such order the Commissioner or the Tribunal, as the case may be, shall record reasons for such rejection.

(*2*) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

Application of sections 4 and 12 of Limitation Act.

[6][**22A.** In computing the period [7]* * * laid down under sections 21 and 22 the provisions of sections 4 and 12 of the Indian Limitation Act, 1908, so far as may be, shall apply.] IX of 1908.

Extension of period of limitation in certain cases.

[8][**22B.** The prescribed authority may admit any appeal under section 21 and the Tribunal may admit an application under section 22 after the period of limitation laid down in the said sections, if the appellant or the applicant, as the case may be, satisfies the prescribed authority or the Tribunal that he had sufficient cause for not preferring the appeal or making the application within such period.]

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[1] These words and figures were substituted for the original by Bom. 1 of 1949, s. 14.
[2] These words were substituted for the original by Bom. 24 of 1948, s. 12 (*1*).
[3] This proviso was inserted, *ibid.*, s. 12 (*2*).
[4] These words were substituted for the original by Bom. 1 of 1949, s. 15.
[5] This word was inserted by Bom. 24 of 1948, s. 12 (*3*).
[6] This section was added, *ibid.*, s. 13.
[7] The words "of sixty days" were deleted by Bom. 1 of 1949, s. 16.
[8] This section was inserted, *ibid.*, s. 17.

23. (*1*) Within sixty days from the passing by the Tribunal of any order under sub-section (*2*) of section 21 or sub-section (*1*) of section 22 affecting any liability of any dealer to pay tax under this Act, such dealer or the Commissioner may, by application in writing accompanied where the application is made by a dealer by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such order, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court. Statement of case to High Court.

(*2*) If, for reasons to be recorded in writing the Tribunal refuses to make such reference, the applicant may, within thirty days of such refusal, either—

(*a*) withdraw his application (and if the applicant who does so is a dealer the fee paid by him shall be refunded), or

(*b*) apply to the High Court against such refusal.

(*3*) If upon the receipt of an application under clause (*b*) of sub-section (*2*), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(*4*) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(*5*) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(*6*) Where a reference is made to the High Court under this section, the costs (including the disposal of the fee referred to in sub-section (*1*)) shall be in the discretion of the Court.

(*7*) The payment of the amount, if any, of tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (*1*) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference the excess tax paid shall be refunded in accordance with the provisions of section 13.

[1]**[23A.** (*1*) The Commissioner may at any time within two years from the date of any order passed by him, on his own motion, rectify any mistake apparent from the record and shall within a like period rectify any such mistake which has been brought to his notice by a dealer: Rectification of mistake.

Provided that no such rectification shall be made if it has the effect of enhancing the tax or reducing the amount of a refund unless the Commissioner has given notice in writing to the dealer of his intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(*2*) The provisions of sub-section (*1*) shall apply to the rectification of a mistake by the Tribunal as they apply to the rectification of a mistake by the Commissioner.

(*3*) Where any such rectification has the effect of reducing the amount of the tax, the Commissioner shall in the prescribed manner refund any amount due to the dealer.

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[1] This section was inserted by Bom. 1 of 1949, s. 18.

(*4*) Where any such rectification has the effect of enhancing the amount of the tax or reducing the amount of the refund, the Commissioner shall recover the amount due from the dealer in the manner provided for in section 12.

Offences and penalties.

24. (*1*) Whoever—

(*a*) carries on business as a dealer in contravention of sub-section (*1*) of section 8 ; or

(*b*) fails, without sufficient cause, to submit any return as required by section 10 or knowingly submits a false return ; or

(*c*) being a registered dealer, falsely represents when purchasing any class of goods, that goods of such class are covered by his certificate of registration ; or

(*d*) not being a registered dealer, falsely represents when purchasing goods that he is a registered dealer ; or

[1][(*dd*) contravenes the provisions of sub-section (*1*), (*2*) or (*3*) of section 12A ; or]

(*e*) fails, when directed so to do under section 14, to keep any accounts or records of sales in accordance with the direction ; or

(*f*) refuses to comply with any requirement made of him under sub-section (*1*) of section 15 ; or

(*g*) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information ; or

(*h*) obstructs any officer making an inspection, a search or a seizure under section 15 ; or

(*i*) neglects to furnish any information required by section 17,

shall, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both ; and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(*2*) No Court shall take cognizance of any offence under this Act, or under the rules made thereunder, except with the previous sanction of the Commissioner, and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

(*3*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act shall be cognizable and bailable. V of 1898.

Investigation of offences.

25. (*1*) Subject to such conditions as may be prescribed, the Commissioner may authorise any persons appointed under section 3 to assist him, to investigate all offences punishable under this Act.

(*2*) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence. V of 1898.

Compounding of offences.

26. (*1*) The Commissioner may, either before or after the institution of proceedings under section 24, accept from any person charged with an offence under sub-section (*1*) of section 24 or under any rules made under this Act, by way of composition of the offence, a sum not exceeding one thousand rupees or where the offence charged is under clause (*a*) or clause (*b*) of that sub-section, not exceeding double the amount of tax which would have been payable by the dealer had he complied with the provisions of this Act, whichever is greater.

[1] This clause was inserted by Bom. 1 of 1949, s. 19.

(*2*) On payment of such sum as may be determined by the Commissioner under sub-section (*1*) no further proceedings shall be taken against the accused person in respect of the same offence.

27. No suit, prosecution or other legal proceedings shall lie against any servant of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder. Indemnity.

28. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as aforesaid, be entitled to require any servant of the Crown to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof. Disclosure of information by a public servant. I of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Crown discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (*1*) [1][, (*a*)] for the purposes of a prosecution under the Indian Penal Code, in respect of any statement, return, accounts, document or evidence or for the purposes of a prosecution under this Act [2][or (*b*) to any authority acting in exercise of the powers conferred by the Indian Income-tax Act, 1922, where it is necessary to disclose the same to such authority for the purposes of the said Act.] XLV of 1860. XI of 1922.

29. (*1*) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may prescribe—

[3][(*a*) the period for return of goods under clause (*j*) of section 2 ;]

(*b*) the qualifications to be possessed by a member of the Tribunal ;

(*c*) the further period after the date of expiry of three consecutive years referred to in sub-section (*3*) of section 5 ;

[4][(*cc*) [5][the period within which and the terms and conditions subject to which the goods are despatched or removed under the proviso to sub-section (*1*) of section 6; and] the circumstances in which and the conditions subject to which the Commissioner may accept a lump sum by way of composition under sub-section (*2*) [6][of the said section 6], and the manner of determining such sum ;

(*cca*) [7]* * * * * * ;]

(*d*) the other sales, turnover in respect of which may be deducted from a dealer's gross turnover in computing his taxable turnover as defined in section 6 ;

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[1] These brackets and letter were inserted by Bom. 1 of 1949, s. 20 (*a*).
[2] This portion was inserted, *ibid.*, s. 20 (*b*).
[3] Cl. (*a*) was substituted by Bom. 25 of 1947, s. 17 (*a*).
[4] Clauses (*cc*) and (*cca*) were inserted by Bom. 24 of 1948, s. 14.
[5] This portion was inserted by Bom. 1 of 1949, s. 21 (*i*) (*a*).
[6] These words and figure were substituted for the original, *ibid.*, s. 21 (*i*) (*b*).
[7] This clause was deleted, *ibid.*, s. 21 (*ii*).

[1][(*dd*) the conditions and restrictions subject to which the general tax on bullion and specie is to be levied ;]

[2][(*ddd*) the rate at which deductions shall be made under the proviso after Rule III in sub-section (*3*) of section 6 ;]

(*e*) the manner in which and the authority to which applications for registration shall be made under section 8 ;

(*f*) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 8 [3][and the manner in which applications for cancellation of registration shall be made, and the date from which cancellation of registration shall take effect, under sub-section (*6*) of that section ;]

[4][(*ff*) the manner in which a certificate of registration may be granted under sub-section (*1*), and the manner in which application may be made under sub-section (*5*) of section 8-A ;]

(*g*) the manner in which the lists and particulars referred to in section 9 shall be published ;

(*h*) the returns to be furnished under section 10 and the dates by which, and the authority to which, such returns shall be furnished ;

(*i*) the procedure to be followed for assessment under section 11 ;

(*j*) the intervals at which, and the manner in which, the tax shall be payable under section 12 ;

[5][(*jj*) the period within which a person or a dealer shall pay the amount of tax collected by him into a Government treasury under sub-section (*4*) of section 12A ;]

(*k*) the manner in which refunds under section 13 shall be made;

(*l*) the accounts and forms thereof required by the Commissioner to be kept under [6][sub-section (*1*) of] section 14 [7][and the conditions or restrictions subject to which the accounts shall be maintained under sub-section (*2*) of the said section 14 ;]

(*m*) the conditions under which the production of accounts or documents or the furnishing of information may be required under sub-section (*1*) of section 15 ;

[8][(*mm*) the period within which, the authority to which and the manner in which a declaration shall be sent under section 16A ;]

(*n*) the authority to which, and the time within which, information shall be furnisded under section 17 ;

[9][(*nn*) the period for obtaining certificates of registration under sub-section (*2*) or (*3*) of section 18 ;]

(*o*) the manner in which, and the authority to which, appeals against any order, under the Act, may be preferred under section 21 ;

(*p*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under sections 21 and 22 ;

(*q*) the manner in which, and the time within which, applications shall be made, information furnished and notices served, under this Act ;

(*r*) any other matter which is required to be or may be prescribed.

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[1] This clause was inserted by Bom. 52 of 1948, s. 3.
[2] This clause was inserted by Bom. 1 of 1949, s. 21 (*iii*).
[3] This portion was substituted for the original, *ibid.*, s. 21 (*iv*).
[4] This clause was inserted by Bom. 25 of 1947, s. 17(*b*).
[5] This clause was inserted by Bom. 1 of 1949, s. 21 (*v*).
[6] These words, brackets and figure were inserted, *ibid.*, s. 21 (*vi*) (*a*).
[7] This portion was added, *ibid.*, s. 21 (*vi*) (*b*).
[8] This clause was inserted, *ibid.*, s. 21 (*vii*).
[9] This clause was inserted by Bom. 25 of 1947, s. 17 (*c*).

(*3*) In making any rule the Provincial Government may direct that a breach thereof shall be punishable with fine not exceeding one thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the continuance of the offence.

30. [*Repeal of Bom. V of 1939.*] *Repealed by Bom. XXIV of 1948, s. 15.*

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[1][SCHEDULE I.

(*See* section 6.)

1. (*i*) Motor vehicles including motor cars, motor taxi cabs, motor cycles and cycle combinations, motor scooters, motorettes, motor omnibuses, motor vans and motor lorries.

(*ii*) Chassis of motor vehicles.

(*iii*) Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts and accessories of motor vehicles, not being such articles as are ordinarily also used for other purposes than as parts or accessories of motor vehicles.

2. Refrigerators and air-conditioning plants [2][and parts thereof].

3. Wireless reception instruments and apparatus and component parts thereof including all electrical valves, accumulators, amplifiers and loud speakers which are not specially designed for purposes other than wireless reception.

4. Cinematographic, photographic and other cameras, projectors and enlargers; lenses and other parts of and accessories to such cameras, projectors and enlargers, and films, plates, paper and cloth required for use therewith.

5. Binoculars and opera glasses.

6. Perfumery, cosmetic and toilet articles, except soaps and other articles as may be specified by the Provincial Government by notification in the *Official Gazette*.

7. Silk including artificial silk and all silk goods.

8. Fountain pens, stylograph pens and propelling pencils.

9. All clocks, time-pieces and watches, and parts thereof.

10. Pile carpets.

11. Gramophones, radio-gramophones [3][and component parts thereof] and records.

12. All arms including rifles, revolvers, pistols and ammunition for the same.

13. Jewellery, precious stones, unset precious stones and pearls, real and cultured.]

[4][(14) Upholstered furniture.

(15) Articles made of ivory, sandal wood or blackwood or inlaid therwith, ornamental metalware with enamelled or carved designs and gold and silver filigree.

(16) Iron and steel safes, almirahs and furniture.

(17) Glassware, chinaware and domestic pottery excluding earthenware pottery.

(18) Table cutlery, including knives, forks and spoons.

(19) Tabulating, calculating, indexing or card punching machines and Adrema machines.

(20) Dictaphone and other similar apparatus for recording or reproducing sound and parts and accessories thereof.

(21) Domestic electrical appliances other than torches, torch cells, filament lighting bulbs and fans.

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[1] Schedule I was inserted by Bom. 24 of 1948, s. 16 (*1*).
[2] These words were inserted by Bom. 1 of 1949, s. 22 (*i*).
[3] These words were inserted, *ibid.*, s. 22 (*ii*).
[4] Entries 14 to 30 were added, *ibid.*, s. 22 (*iii*).

(22) All fabrics containing any material of gold, silver or gilded metal whether knitted, woven or embroidered; and thread, *zari*, or other embroidery materials of gold, silver or gilded metal.

(23) All fabrics and articles for personal wear in which the combined weight of silk, artificial silk and synthetic fibre used is more than 50 per cent.

(24) Woollen goods except those exempted.

(25) Furs and skins (other than those of cattle, sheep and goats) and articles of personal or domestic use made therefrom.

(26) Ladies' handbags and vanity bags.

(27) Shoes and footwear sold at a rate not less than rupees fifteen per pair.

(28) Spirits of wine, rectified spirit, brandy, whisky, rum, gin, gingerale, grape liquor and malt liquor, whether manufactured in India or imported into India from outside.

(29) Cigarette cases and lighters.

(30) Fireworks.]

SCHEDULE II.[1]

(See section 7.)

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
1	All cereals and pulses including all forms of rice ..	[2][Except when sold in sealed containers.]
2	Flour including atta, maida, suji and bran ..	[2][Except when sold in sealed containers.]
3	Bread.	
4	Meat	[2][Except when sold in sealed containers.]
5	Fish	[2][Except when sold in sealed containers.]
6	Fresh Eggs.	
[3][7	Cattle, sheep and goats.	
8	Fresh vegetables.	
9	Fresh fruits.	
10	Food and non-alcoholic drink consumed at a hotel, restaurant, refreshment room, eating house, or other place where such food and drinks are served.	Except when the cost of such food and drinks consumed at one time exceeds Rupee one.]
11	Gur. [4]* * *	
12	Salt.	
13	Pepper, tamarind and chillies.	
[5][14	Fresh milk, whole or separated and milk powder.]	
[6]*	* * * * *	
16	Kerosene.	
17	Cattle-feeds including fodder, Cotton-seed and other concentrates.	
18	Fertilizers.	
19	Quinine.	
20	Coal Gas	When sold by a Gas Supply Company for consumption— (a) by Government or any Local Authority, or (b) in respect of any industrial undertaking (other than in residential or Office premises).
21	Tobacco in any form whether manufactured or not.	
22	Matches.	

[1] The original Schedule was numbered as Schedule II by Bom. 24 of 1948, s. 16 (*1*).
[2] These words were inserted, *ibid.*, s. 16 (*2*) (*a*).
[3] Entries 7 to 10 were substituted for the original by Bom. 1 of 1949, s. 23 (*a*).
[4] The words "sugar and molasses" were deleted, *ibid.*, s. 23 (*b*).
[5] This entry was substituted for the original by Bom. 24 of 1948, s. 16 (*2*) (*c*).
[6] Entries 15, 24 and 29 were deleted by Bom. 1 of 1949, s. 23 (*c*).

SCHEDULE II—*contd.*

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
1*	* * * * * *	* *
2*	* * * * * *	* * *
25	Electrical Energy.	
26	Motor spirit, meaning any liquid or admixture of liquids which is capable of providing reasonably efficient motive power for any form of motor vehicle and which has a flashing point below 76° F.	*
27	Water other than aerated and mineral waters.	
28	Buttermilk and curds.	
2*	* * * * * *	* * *
30	Turmeric Powder.	
31	Betel nuts.	
32	Cloth woven on handlooms, exclusively out of mill or handspun cotton yarn, [3][and caps, towels and handkerchief made exclusively from such cloth or yarn].	
4*	* * * * * *	* * *
34	Firewood and charcoal.	
35	Manures including oil-cakes.	
36	Agricultural implements worked or operated exclusively by human or animal agency, [5][specified by the Provincial Government by notification in the *Official Gazette*].	
[6][37	Text Books sanctioned by the Provincial Government, or the Director of Public Instruction for the Province of Bombay, or the Educational Inspectors of Divisions.]	
38	Slate and slate pencils	7* * * *
39	Chalk-sticks and crayons	7* * * *
40	Foot-rules	7* * * *
41	Exercise and drawing books	8* * * *
42	Stamp-paper sold by vendors duly authorised under the provisions of the Indian Stamp Act, 1899.	
*43	Newspapers.	
[9][44	Hides and skins of cattle, sheep and goats and leather (whether tanned or untanned).]	
*45	Cotton (whether ginned or unginned).	
*46	Cotton Yarn.	
*47	Cotton Seed.	
10*	* * * * * *	* * *
*49	Texts of sacred Books of all religions.	
50	Betel leaves.	
10*	* * * * * *	* * *
52	Cloth woven on handlooms exlusively out of handspun woollen yarn.	
53	Goods obtained from the Canteen Stores Department of the Government of India and sold, by Canteen Contractors certified by that Department, to members of His Majesty's or Allied Forces at prices fixed by the said Government.	
[11][54	Charkha and such other implements used in the production of handspun yarn or hand-woven cloth as may be specified by the Provincial Government by notification in the *Official Gazette*.]	

**N.B.*—Legally the sales of these items can only be exempted from the 1st November 1946 but no tax will be collected in respect of these items durng the intervening period, namely October 1946.

[1] Entry 23 was deleted by Bom. 24 of 1948, s. 16 (2) (*d*).

[2] Entries 15, 24 and 29 were deleted by Bom. 1 of 1949, s. 23 (*c*).

[3] These words were inserted by Bom. 24 of 1948, s. 16 (2) (*e*).

[4] Entry 33 was deleted, *ibid.*, s. 16 (2) (*f*).

[5] These words were inserted, *ibid.*, s. 16 (2) (*g*).

[6] This entry was substituted for the original by G. N., F. D. No. 7069/33-ST, dated 1st June 1949.

[7] The words "When sold to *bona fide* students and educational institutions" were deleted, *ibid.*, s. 16 (2) (*h*).

[8] The words "sold by educational institutions" were deleted, *ibid.*, s. 16 (2) (*i*).

[9] This entry was substituted for the original by Bom. 1 of 1949, s. 23 (*d*).

[10] Entries 48 and 51 were deleted, *ibid.*, s. 23 (*e*).

[11] Entry 54 was added, *ibid.*, s. 16 (2) (*k*).

THE BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1946.

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*BOMBAY ACT No. VI OF 1946.[1]

[THE BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1946.]

[*8th March 1946.*]

Amended by Bom. 9 of 1948.

An Act to provide for the levy of a tax on the sales of motor spirit in the Province of Bombay.

WHEREAS it is expedient to provide for the levy of a tax on the sales of motor spirit in the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales of Motor Spirit Taxation Act, 1946.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) This section shall come into force at once and the rest of this Act shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "consumer" means a person who purchases motor spirit for the purpose of consumption and not for resale;

(*2*) "importer" means a person who carries on the trade of importing motor spirit into the Province of Bombay;

(*3*) "licence" means a licence granted or renewed under this Act;

(*4*) "motor spirit" means any liquid or admixture of liquids which is capable of providing reasonably efficient motive power for any form of motor vehicle and which has a flashing point below 76°F;

(*5*) "prescribed" means prescribed by rules made under this Act;

(*6*) "retail sale" means a sale of motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased;

(*7*) "retail trader" means a trader who sells motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased;

(*8*) "trader" means a person who carries on the business of buying or selling motor spirit for the purpose of gain or profit and includes—

(*a*) a manufacturer, or

(*b*) an importer,

who carries on such business, and

(*c*) a broker or commission agent working in connection with such business.

The words "trade" or "trading" shall be construed accordingly.

(*9*) "wholesale trader" means a person who carries on trade for the purpose of resale and not for consumption.

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*This Act was repealed and re-enacted by Bom. 9 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1946, P. IV, p. 106.

Levy of tax.

3. (*1*) There shall be levied and collected a tax on the sale of motor spirit at such stage between its manufacture or import, as the case may be, and its consumption, as may be prescribed :

Provided that such tax shall not be levied on its sale at more than one such stage :

Provided further that such tax shall not be levied on the sale of motor spirit by a manufacturer or importer except on retail sale thereof.

(*2*) Subject to the provisions of section 4, the tax under sub-section (*1*) shall be levied by the Collector at the prescribed time, in the prescribed manner and at a prescribed rate not exceeding [1][12½] per cent. on the value of the sale of motor spirit.

(*3*) If any tax payable under sub-section (*1*) is not paid within the prescribed time, the Collector may in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

Assessment of tax.

4. (*1*) In cases where accounts are kept and maintained and statements submitted in the manner and at the period prescribed under section 10, the tax leviable under section 3 shall be assessed by the Collector on the value of sales as disclosed in such accounts and statements.

(*2*) In cases where no such accounts are kept and maintained or where no such statements are submitted, or where such accounts or statements are in the opinion of the Collector false or incorrect, the Collector shall make the assessment to the best of his judgment.

Government may grant refund of tax in certain cases.

5. Where motor spirit, on the sale of which to a wholesale trader the tax is levied and collected under section 3, is exported outside the Province of Bombay, the wholesale trader concerned shall, subject to such conditions as may be prescribed and upon an application made in this behalf, be entitled to a refund of the tax levied and collected in respect of such motor spirit.

Trader to take out licence.

6. (*1*) Every trader carrying on business in the sale or purchase of motor spirit shall obtain a licence from the Collector for carrying on such trade.

(*2*) Where a trader has more than one shop or place of business whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each shop or place of business.

(*3*) Notwithstanding anything contained in this section, a hawker shall be liable to obtain one licence, whatever may be the area of his operation.

(*4*) Every trader shall get his licence renewed before the date on which it expires.

(*5*) A license granted or renewed under the Bombay Sales Tax Act, 1939, shall be deemed to be license granted or renewed under this Act. Bom. V of 1939.

Expiry and renewal of licence.

7. (*1*) Every licence shall be in such form and subject to such conditions as may be prescribed and shall expire on the last day of the year for which it was granted, but may be renewed from year to year :

Provided that in case of any licence given to a manufacturer or importer the conditions of such licence may provide that the holder of the licence shall not sell motor spirit except to a wholesale trader or a consumer.

(*2*) The Collector may impose for the grant or renewal of every licence such fee not exceeding Rs. 2 as may be prescribed.

Explanation.—In this section "year" means the financial year.

[1] These figures were substituted for the figures "6¼" by Bom. 9 of 1948, s. 2.

8. No trader shall carry on business in the sale or purchase of motor spirit without holding a licence under section 6.

No trader to carry on business without licence.

9. Whoever contravenes the provisions of section 8 shall, on conviction, be punishable with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Penalty for contravention of section 8.

10. Every trader carrying on business in the sale or purchase of motor spirit shall keep and maintain accounts in the form prescribed of the value of motor spirit (manufactured or imported), sold or purchased by him and shall submit to the officer authorised in this behalf by the Collector statements in such form and at such period as may be prescribed.

Traders and other persons to keep and maintain accounts.

11. If any trader liable under section 10 to keep accounts or to submit statements fails to keep or submit the same in the manner and at the period prescribed, he shall, on conviction, be punishable with fine which may extend to Rs. 500 and in the case of a continuing failure with an additional fine which may extend to Rs. 50 for every day during which such failure continues after conviction for the first such failure.

Penalty for failure to keep accounts or submit returns.

12. Any officer empowered by the Provincial Government in this behalf may, for the purposes of this Act at all reasonable times,—

(*a*) require any trader carrying on business in the sale or purchase of motor spirit to produce before him accounts or other documents or to furnish any other information ; or

(*b*) inspect the accounts of any such trader.

Power of officers to enter places where any trade is carried on, etc.

13. (*1*) Subject to such conditions as may be prescribed, the Collector may suspend or cancel a licence given under section 6—

(*a*) if any tax payable under section 3 is not duly paid by the holder of such licence ; or

(*b*) if there is any breach of any of the conditions subject to which the licence is granted ; or

(*c*) if the holder of such licence contravenes any of the provisions of this Act or the rules made thereunder.

(*2*) If the licence is suspended or cancelled for any reason, the licensee shall not be entitled to any compensation for such suspension or cancellation or to the refund of any fee paid in respect thereof.

Suspension or cancellation of licence.

14. Any officer specially empowered by the Provincial Government in this behalf may enter and search, at any time, by day or by night any building, vessel, vehicle or place in which he has reason to believe that motor spirit is kept for the purposes of sale.

Power of entry and search.

15. All searches made under section 14 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

V of 1898.

Searches how made.

16. (*1*) Every officer not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(*2*) Every such officer shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence.

V of 1898.

Power of investigation.

Offences to be bailable.

17. All offences punishable under this Act shall be bailable.

Power to compound offences.

18. (*1*) The Collector may accept from any person who has committed an offence punishable under this Act or the rules thereunder, by way of composition of such offence, a sum of money not exceeding five hundred rupees or a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, whichever is greater.

(*2*) On the payment of such sum of money to the Collector the accused person shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

Jurisdiction to try offences.

19. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act.

Delegation of power by Collector.

20. Subject to the general or special orders of the Provincial Government the Collector may delegate any of the powers conferred upon him by or under the this act to any officer not below the rank of a Mamlatdar or Mahalkari.

Officers to be public servant.

21. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith and limitation of suits and prosecutions.

22. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against the Province of Bombay and no prosecution or suit shall be instituted against any officer of the Crown in respect of any thing done or intended to be done, under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and revision.

23. (*1*) Within sixty days of the making of any order under this Act any person aggrieved by such order may appeal—

(*a*) to the Commissioner or to such officer as the Provincial Government may appoint in this behalf, if such order is passed by a Collector, and

(*b*) to the Collector, if such order is passed by any officer other than the Collector.

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (*3*), be final.

(*3*) The Provincial Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

Power of Government to exempt certain traders from the Act.

24. The Provincial Government may, by rules made in this behalf, exempt any class of traders from all or any of the provisions of this Act.

25. (*1*) The Provincial Government may, for the purposes of carrying out the provisions of this Act, make rules. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules for the following matters :—

(*a*) the stage at which, the rate and the time at which and the manner in which the tax shall be levied and collected under section 3 ;

(*b*) the conditions subject to which a wholesale trader shall be entitled to refund under section 5 ;

(*c*) the form and conditions of the licence under section 7 and the fee for the grant or renewal thereof ;

(*d*) the form of accounts to be maintained, and of statements to be submitted and the periods at which such statements are to be submitted under section 10 ;

(*e*) the conditions subject to which a licence may be suspended or cancelled under section 13 ;

(*f*) the rank of officer empowered to investigate offences to be prescribed under section 16 ; and

(*g*) the conditions subject to which any class of traders shall be exempted from all or any of the provisions of this Act under section 24.

(*3*) Any rule made under this section may provide that any person contravening any such rule shall be liable on conviction to a fine which may extend to Rs. 50.

(*4*) Rules made under this section shall be subject to the condition of previous publication and shall be published in the *Official Gazette*.

26. All sums payable as taxes, fees or penalties under section 3 or 7 shall be recoverable as arrears of land revenue. Licence fee and other dues to be recoverable as arrears of land revenue.

Bom. V of 1939.

27. Notwithstanding the repeal of the Bombay Sales Tax Act, 1939,— Transitional provisions.

(*a*) such repeal shall not affect the liability of any person to pay any sum due from him under the said Act or any right acquired or the validity or invalidity of anything already done thereunder ; and

(*b*) all proceedings commenced, officers empowered or authorised, all powers conferred, rules made and orders issued under any of the provisions of the Bombay Sales Tax Act, 1939, shall be continued, and, so far as may be, be deemed to have been respectively commenced, empowered or authorised, conferred, made or issued under this Act.

Bom. V of 1939.

THE INDIAN ELECTRICITY (BOMBAY AMENDMENT) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of sections 5 and 7 of Act IX of 1910.
3. Insertion of new section 7-A in Act IX of 1910.
4. Amendment of section 42 of Act IX of 1910.
5. Possession taken before the coming into force of this Act deemed to be possession taken under new section 7-A.

BOMBAY ACT No. XVIII OF 1946.[1]

[THE INDIAN ELECTRICITY (BOMBAY AMENDMENT) ACT, 1946.]

[*30th September 1946.*]

An Act to amend the Indian Electricity Act, 1910, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Indian Electricity Act, 1910, in its application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows :— IX of 1910.

1. This Act may be called the Indian Electricity (Bombay Amendment) Act, 1946. Short title.

2. To clause (*d*) of section 5 and sub-section (*2*) of section 7 of the Indian Electricity Act, 1910, hereinafter called the said Act, in its application to the Province of Bombay, the following proviso shall be added, namely :— IX of 1910. Amendment of sections 5 and 7 of Act IX of 1910.

"Provided that where the undertaking vests in the Provincial Government under the provisions of section 7-A for the purposes of valuation, the time of such vesting shall be deemed to be the time of purchase."

3. After section 7 of the said Act, the following new section shall be inserted namely :— Insertion of new section 7-A in Act IX of 1910.

"7-A. (*1*) Notwithstanding anything contained in any law for the time being in force, the Provincial Government may,— Provincial Government may take possession and control of undertaking before purchase is effected.

(*a*) when it elects under clause (*d*) of section 5 to purchase an undertaking, or

(*b*) if it elects under sub-section (*2*) of section 7 to purchase an undertaking, on the expiry of the period of notice required to be given under sub-section (*4*) thereof

pending the purchase of the undertaking, at any time by order require the licensee to deliver possession of such undertaking to such officer as the Provincial Government may appoint in that behalf on or before such day as may be specified in the order, and the licensee shall comply with such order. On failure of the licensee to comply with such order, the Provincial Government may forthwith enter into possession of such undertaking.

(*2*) On the date of compliance with the order, or the day specified therein which ever is earlier the provisions of clause (*c*) of section 5 or sub-section (*3*) of section 7, as the case may be, shall, without prejudice to the right of the licensee to payment of the value of the undertaking, apply to such undertaking as if the purchase had been effected."

4. In section 42 of the said Act, clauses (*a*), (*b*) and (*c*) shall be re-lettered as "(*b*)", "(*c*)" and "(*d*)" respectively and before clause (*b*) as so relettered the following new clause shall be inserted, namely :— Amendment of section 42 of Act IX of 1910.

"(*a*) fails to comply with a requisition under section 7-A; or"

5. Where the Provincial Government has before the coming into force of this Act taken possession of any undertaking pending the purchase thereof by it under the said Act, such possession shall be deemed to have been taken in pursuance of an order issued under section 7-A of the said Act. Possession taken before the coming into force of this Act deemed to be possession taken under new section 7-A.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 59; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

THE BOMBAY ELECTRICITY (SURCHARGE) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS..

1. Short Title, extent, application and duration.
2. Definitions.
3. Power of Provincial Government to fix rate of surcharge.
4. Licensee and sanction holder not to supply energy at charges other than charges surcharged.
5. Existing surcharges deemed to be made under this Act.
6. Act to apply notwithstanding any other law etc.
7. Rules.

BOMBAY ACT No. XIX OF 1946.[1]

[THE BOMBAY ELECTRICITY (SURCHARGE) ACT, 1946.]

[*30th September 1946.*]

An Act to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings.

WHEREAS it is expedient to provide for the levy of a surcharge by licensees and sanction-holders under the Indian Electricity Act, 1910, in respect of their undertakings; It is hereby enacted as follows:—

IX of 1910.

Short title, extent, application and duration.

1. (*1*) This Act may be called the Bombay Electricity (Surcharge) Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall apply to such undertakings as the Provincial Government may, by notification in the Official Gazette, specify.

(*4*) It shall be in force for a period of three years only.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "licensee" means any person licensed under Part II of the principal Act to supply energy;

(*ii*) "prescribed" means prescribed by rules;

IX of 1910.

(*iii*) "principal Act" means the Indian Electricity Act, 1910;

(*iv*) "sanction-holder" means a person supplying electrical energy with the previous sanction of the Provincial Government under section 28 of the principal Act;

(*v*) words and expressions used in this Act but not defined shall have the meanings assigned to them in the principal Act.

Power of Provincial Government to fix rate of surcharge.

3. (*1*) Any licensee or sanction-holder may apply to the Provincial Government in the prescribed form for fixing a rate of surcharge on the charges for energy or street lighting equipment leviable by him under the terms of his licence, sanction or contract, as the case may be. Such application shall be accompanied by such calculations as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*), the Provincial Government may, if it considers that a surcharge is desirable in the case of such licensee or sanction-holder, by order notified in the Official Gazette, fix the rate of surcharge.

(*3*) The rate of surcharge fixed under sub-section (*2*) shall not exceed—

(*a*) 33⅓ per centum in the case of undertakings where diesel oil is used for the generation of energy,

(*b*) 20 per centum in the case of undertakings where steam is used for the generation of energy.

(*4*) In the order fixing the rate of surcharge under sub-section (*2*), the Provincial Government may specify such conditions as it may think fit to be observed by the licensee or sanction-holder.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 82; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

(*5*) Without prejudice to the generality of the power contained in sub-section (*4*), the Provincial Government may require the execution of an undertaking in the prescribed form by the licensee or sanction-holder that his profits in excess of the prescribed limits shall be transferred to a Rates Stabilization Reserve for prescribed purposes.

(*6*) The Provincial Government may at any time enhance or reduce by a like order the rate fixed under sub-section (*2*).

Licensee and sanction-holder not to supply energy at charges other than charges surcharged.

4. Upon the rate of surcharge being fixed by the Provincial Government from time to time in accordance with this Act, it shall not be lawful for the licensee or sanction-holder concerned except with the previous sanction of the Provincial Government to charge at other than charges surcharged at the rate for the time being so fixed :

Provided that no surcharge or any subsequent revision thereof shall affect charges leviable for any period not covered by the relevant order of the Provincial Government.

Existing surcharges deemed to be made under this Act.

5. Any existing surcharges applied by a licensee or sanction-holder under the provisions of the Bombay Electricity Supply (Licensed Undertakings' War Costs) Order, 1944, to his charges shall be deemed to be surcharges fixed under section 3.

Act to apply notwithstanding any other law etc.

6. The provisions of this Act shall apply notwithstanding anything contained in any other law or in any licence or sanction granted under the principal Act, or in any contract for energy or for maintenance of street lighting equipment.

Rules.

7. (*1*) The Provincial Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules providing for the form of application and the calculations to accompany it under sub-section (*1*) of section 3, and the form of undertaking to be executed, the limits in excess of which profits of a licensee or sanction-holder shall be transferred to a Rates Stabilization Reserve and the purposes for which they shall be so transferred under sub-section (*5*) of section 3.

THE BOMBAY ELECTRICITY (EMERGENCY POWERS) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent, commencement and duration.
2. Definitions.
3. Restriction on consumption of supply.
4. Discontinuance of supply in certain circumstances.
5. Restriction on supply of electrical energy and prohibition on reconnection of supply.
6. Restriction on the use of electrical energy for the purpose of advertisement.
7. Continuance in force of existing orders.
8. Penalties.
9. Offences by corporations.
10. Cognizance of offences.
11. Protection of action taken under Act.
12. Service of orders or directions.

BOMBAY ACT No. XX OF 1946.[1]

[THE BOMBAY ELECTRICITY (EMERGENCY POWERS) ACT, 1946.]

[*30th September 1946.*]

An Act to provide for the continuance of the powers to control the supply, consumption, distribution and use of electrical energy in the Province of Bombay.

WHEREAS it is expedient to provide for the continuance of the powers to control the supply, consumption, distribution and use of electrical energy in the Province of Bombay; It is hereby enacted as follows:—

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Bombay Electricity (Emergency Powers) Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on the 1st day of October 1946.

(*4*) It shall be in force for a period of three years.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "consumer", "licensee" and "works" have the meanings assigned to them in section 2 of the Indian Electricity Act, 1910; IX of 1910.

(*b*) "requisition" means a requisition made under the Indian Electricity Act, 1910, for the supply of electrical energy. IX of 1910.

Restriction on consumption of supply.

3. Notwithstanding anything contained in any contract or agreement, the Provincial Government may by an order in writing require any consumer to, and thereupon such consumer shall, reduce his consumption of electrical energy to such extent and in such manner and by such means as may be specified in the order. The Provincial Government shall serve a copy of the order on the licensee supplying the energy.

Discontinuance of supply in certain circumstances.

IX of 1910. **4.** (*1*) Notwithstanding anything contained in the Indian Electricity Act, 1910, or any license granted thereunder or any agreement for the supply of electrical energy, the Provincial Government may, if in its opinion it is necessary or expedient for maintaining the supply or securing the equitable distribution of electrical energy, by an order in writing—

(*i*) authorise, or

(*ii*) require

a licensee to, and the licensee when so required shall, discontinue or reduce the supply of electrical energy to any consumer, other than a distributing licensee, who—

(*a*) without the permission of the Provincial Government contravenes any direction issued to him under section 3; or

(*b*) without the permission of the Provincial Government—

(*i*) exceeds at any time the maximum demand in kw. of electrical energy recorded in respect of him during the twelve months ending the 31st January 1943, or

(*ii*) connects or has connected load beyond that notified in writing to the licensee up to the 31st January 1943.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 122; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

(2) The licensee shall—

(*i*) before discontinuing or reducing the supply of electrical energy under sub-section (*1*) give the consumer not less than 48 hours' notice in writing of his intention so to do ;

(*ii*) on discontinuing the supply, communicate to the Provincial Government within twenty-four hours from the date of discontinuance the circumstances in which he has done so ;

(*iii*) on being so directed by the Provincial Government recommence the supply with all possible speed.

(*3*) The licensee shall report to the Provincial Government within twenty-four hours of its coming to his notice every contravention of any direction given under section 3, or clause (*b*) of sub-section (*1*).

Restriction on supply of electrical energy and prohibition on reconnection of supply.

5. (*1*) Notwithstanding anything contained in the Indian Electricity Act, 1910, or in any license granted thereunder or in any contract or agreement or in any requisition, the Provincial Government may, if in its opinion, it is necessary or expedient for maintaining the supply or securing the equitable distribution of electrical energy, by order direct a licensee— IX of 1910.

(*a*) not to comply, except with the permission of the Provincial Government, with—

(*i*) the provisions of any contract, agreement or requisition (whether made before or after the commencement of this Act), for the supply (other than the resumption of a supply), or an increase in the supply, of electrical energy to any person,

(*ii*) any requisition for the resumption of a supply to a consumer after a period of six months from the date of its discontinuance,

(*iii*) any requisition for the resumption of a supply made within six months of its discontinuance, where the requisitioning consumer was not himself the consumer of the supply at the time of its discontinuance ;

(*b*) not to comply with any requisition for municipal purposes involving (otherwise than by way of replacement) any new works or additions to or alterations of works already installed.

(*2*) To obtain any permission required under sub-section (*1*), the licensee shall make an application to the Provincial Government in such form as the Provincial Government may notify in the *Official Gazette* in this behalf.

(*3*) On an application being made under sub-section (*2*) the Provincial Government may either refuse the permission sought or grant it either absolutely or subject to such conditions as it may think fit to impose, and may also call for such further particulars relating to the application as it may require.

Restriction on the use of electrical energy for the purpose of advertisement.

6. Notwithstanding anything contained in any contract or agreement, no person receiving a supply of electrical energy from a licensee notified in this behalf, in the *Official Gazette* by the Provincial Government, shall use or cause to be used such electrical energy in the area of supply of such licensee for exhibiting light intended for advertisement on the exterior of any premises, or on any plot of land or in any street or open place.

Continuance in force of existing Orders.

7. Every order made by the Central or Provincial Government under sub-rule (2) of rule 81 of the Defence of India Rules in respect of any of the matters specified in sections 3, 4, 5 and 6 of this Act and in force immediately before the commencement of this Act shall, so far as it could validly be made by the Provincial Government under the said sections, continue in force and be deemed to have been made

under the said sections, and every person authorised, permitted, directed or required to do anything under or in pursuance of any such order shall, so far as he could validly be so authorised, permitted, directed or required, as the case may be, by the Provincial Government under any of the said sections of this Act, be deemed to have been so authorised, permitted, directed or required, as the case may be, under the provisions of this Act.

IX of 1910.

8. Any person who— Penalties.

(*a*) contravenes—

(*i*) any order made or deemed to have been made under section 3, 4, 5 or 6; or

(*ii*) any of the provisions of this Act; or

(*b*) is deemed to have been required or directed under section 3, 4, 5 or 6 to do or refrain from doing anything fails to comply with such requirement or direction,

shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

9. If the person referred to in section 8 is a company or other body corporate, the managing director, manager, secretary or other principal officer managing its business shall be deemed to be guilty of such contravention. Offences by corporations

10. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by such public servant as may be authorised by the Provincial Government in this behalf. Cognizance of offences.

11. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order, direction or requirement made or deemed to have been made under section 3, 4, 5 or 6. Protection of action taken under Act.

(*2*) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to have been made under section 3, 4, 5 or 6.

12. Every order or direction made or issued under this Act shall, as far as may be, be served in the manner prescribed in section 53 of the Indian Electricity Act, 1910.

IX of 1910.

THE BOMBAY SPECIAL TRIBUNAL (CONTINUANCE) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Tribunal's jurisdiction to try Bombay Cases.

SCHEDULE.

BOMBAY ACT No. XXI OF 1946.[1]

[THE BOMBAY SPECIAL TRIBUNAL (CONTINUANCE) ACT, 1946.]

[*30th September 1946.*]

An Act to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

Ordinance No. XXIX of 1943.

WHEREAS by a notification of the Central Government under section 3 of the Criminal Law Amendment Ordinance, 1943, a Special Tribunal known as the Second Special Tribunal at Lahore was constituted, and by a notification under section 5 thereof, the two cases specified in the Schedule to this Act were allotted to it for trial;

AND WHEREAS the said cases would, but for the promulgation of the said Ordinance and the issue of the said notifications, have been triable by a court in the Province of Bombay;

AND WHEREAS upon the expiration of a period of six months after the Proclamation of Emergency in force at the commencement of the said Ordinance has ceased to operate, doubts may arise as to the competency of the said Tribunal to continue to function and dispose of the said cases in the event of their not being disposed of before the expiration of the said period;

AND WHEREAS it is necessary that the said Tribunal should so continue to function and dispose of the said cases:

IT IS HEREBY enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Special Tribunal (Continuance) Act, 1946.

(*2*) It shall come in o force on the 1st day of October 1946.

Definitions.

2. In this Act,—

Ordinance No. XXIX of 1943.

(*a*) "the Ordinance" means the Criminal Law Amendment Ordinance, 1943;

(*b*) "the Tribunal" means the Special Tribunal known as the Second Special Tribunal at Lahore constituted by notification of the Central Government under section 3 of the Ordinance.

Tribunal's jurisdiction to try Bombay cases.

3. (*1*) The Tribunal shall have jurisdiction to try the cases specified in the Schedule to this Act as if it had been constituted by an Act of the Provincial Legislature.

(*2*) All provisions of the Ordinance, except sections 1 and 3 and sub-section (*1*) of section 5, shall continue in force and, so far as may be, apply in relation to the Tribunal and the cases aforesaid, subject to the modification that the powers of the Central Government under sub-section (*3*) of section 4 and section 11 shall, as from the commencement of this Act, be powers of the Provincial Government.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 214; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX: and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

(*3*) The Tribunal shall sit at Bombay :

Provided that the Provincial Government may direct that the Tribunal shall sit at any other place in the Province of Bombay.

(*4*) All notifications issued, and all appointments and all rules made, by the Central Government under section 3, sub-section (*3*) of section 4 and section 11, respectively, of the Ordinance shall, so far as they apply to the Tribunal, continue in force until superseded or modified by the Provincial Government under this Act.

(*5*) For the avoidance of doubt it is hereby declared that all proceedings had before, and all orders issued by, the Tribunal under the Ordinance before the commencement of this Act shall continue to have effect, and it shall not be necessary for the Tribunal to recommence any of the said proceedings or re-issue any of the said orders.

SCHEDULE.

[*See* section 3 (*1*).]

Serial No.	Name of the accused person or persons.	Offences charged against the accused.
1.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore. (4) B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clause 2 of the Iron and Steel (Movement by Rail) Order, 1942.
2.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore. (4) B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clauses 5 and 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941.

THE BOMBAY ESSENTIAL COMMODITIES AND CATTLE (CONTROL) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short Title, extent, commencement and duration.
2. Definitions.
3. Amendment of Schedules.
4. Powers to control production, supply, distribution, etc.
5. Continuation of orders, etc., issued under Defence of India Rules.
6. Publication and service of orders.
7. Effect of orders inconsistent with other enactments.
8. Delegation of powers.
9. Ordinary avocations of life to be interfered with as little as possible.
10. Penalties.
11. Attempts etc., to contravene orders.
12. Offences by corporations.
13. Cognizance of offences.
14. Power to try offences summarily.
15. Protection of action taken under Act.
16. Rules.

SCHEDULES I and II.

BOMBAY ACT No. XXII OF 1946.[1]

[THE BOMBAY ESSENTIAL COMMODITIES AND CATTLE (CONTROL) ACT, 1946.]

[*30th September 1946.*]

Amended by Bom. 7 of 1948.
,, ,, ,, 47 of 1948.

An Act to provide for the control and regulation of the production, movement supply and distribution of, and trade and commerce in, essential commodities, and the maintenance and movement of cattle.

WHEREAS it is expedient to provide for the control and regulation of the production, movement, supply and distribution of certain commodities essential to the life of the community, and for the control and regulation of trade and commerce therein, and for the maintenance, licensing and movement of cattle, and the licensing of dealers in such commodities and cattle, and for certain other purposes ; It is hereby enacted as follows :—

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Bombay Essential Commodities and Cattle (Control) Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on the first day of October 1946.

(*4*) It shall remain in force for a period of [2][four] years.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "cattle" means any of the animals specified in Schedule II ;

(*2*) "essential commodity" means a commodity specified in Schedule I ;

(*3*) "notified order" means an order notified in the *Officail Gazette*.

Amendment of schedules

3. The Provincial Government may, by notification in the *Official Gazette*, direct additions to or omissions from either schedule whether generally or with reference to any particular area specified in the notification, and the schedule shall on the issue of the notification be deemed to be amended accordingly.

Powers to control production, supply, distribution etc.

4. (*1*) The Provincial Government, so far as it appears to it to be necessary or expedient for maintaining or increasing the supply, or for securing the equitable distribution and availability at fair prices, of any essential commodity or cattle may, by notified order, provide for—

(*a*) regulating or prohibiting the production, supply and distribution of, or trade and commerce in, such essential commodity ;

(*b*) regulating the maintenance, supply and distribution of, or trade and commerce in, cattle.

(*2*) Without prejudice to the generality of the powers conferred by sub-section (*1*), an order made thereunder may provide—

(*a*) for regulating by licence, permit or otherwise the production or manufacture of any essential commodity ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 223-224 ; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

[2] This word was substituted for the word two by Bom. 47 of 1948, s. 2.

(*b*) for regulating by licence, permit or otherwise the storage, movement, transport, distribution, disposal, acquisition, use or consumption of any essential commodity ;

(*c*) for prohibiting the witholding from sale of any essential commodity ordinarily kept for sale ;

(*d*) for requiring any person holdings stocks of an essential commodity to sell them at specified prices to a specified person or class of persons or in specified circumstances ;

(*e*) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters ;

(*f*) for controlling the prices at which any essential commodity or cattle may be bought or sold ;

(*g*) for regulating by licence, permit or otherwise the movement, transport, distribution, disposal, acquisition, use and keeping of cattle ;

(*h*) for requiring persons engaged in the production, supply or distribution of, trade or commerce in, any essential commodity or cattle—

(*i*) to maintain,

(*ii*) to produce for inspection,

any books, accounts and records relating to their business, and to furnish any information relating to such business ;

(*i*) for requiring owners as well as persons-in charge of milch cattle, and dealers in milk—

(*i*) to maintain,

(*ii*) to produce for inspection,

any books, accounts and records relating to the production of milk and the number of cattle owned, controlled and maintained by them ;

(*j*) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles and vessels, the seizure by a person authorised to make such search of any article in respect of which such peron has reason to believe that a contravention of the order has been, is being or is about to be committed [1][and of any vehicle, vessel or animal which he has reason to believe has been, is being or is about to be used for carrying such articles,] the grant or issue of licences, permits or other documents, and the charging of fees therefor.

Continuation of orders, etc., issued under Defence of India Rules.

5. Every order made under the Defence of India Rules, in respect of any essential commodity or cattle, and every appointment made, licence granted, permit issued and direction given in respect of the same under the said rules or such order, and which was in force immediately before the commencement of this Act, shall in so far as it could vadidly have been made, granted, issued or given, as the case may be under the provisions of this Act, be deemed to have been made, granted, issued or given thereunder.

Publication and service of orders.

6. (*1*) Every order made under section 4 shall—

(*a*) if it is an order of a general nature or affecting a class of persons, be published in the manner prescribed by rules made in this behalf ;

(*b*) if it is an order affecting an individual corporation or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908 ; V of 1908.

[1] These words were inserted by Bom. VII of 1948, s. 2.

(*c*) if it is on order affecting an individual person other than a corporation or firm, be served on the person—

(*i*) personally, by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(*2*) Where a question arises whether a person was duly informed of an order made in pursuance of section 4, compliance with the requirements of sub-section (*1*) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

7. Any order made or deemed to be made unde section 4 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act. Effect of orders inconsistent with other enactments.

8. The Provincial Government may by notified order direct that the power to make orders under section 4 shall be also exercisable by such officer or authority and in relation to such matters and subject to such conditions, if any, as may be specified in the order. Delegation of powers.

9. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the interest of the Province. Ordinary avocations of life to be interfered with as little as possible.

10. (*1*) If any person contravenes any order made or deemed to be made under section 4 he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine. Penalties.

(*2*) Any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened [1][and any vehicle, vessel or animal which the Court is satisfied has been used with the knowledge of the person having the control thereof for carrying such property] shall be forfeited to His Majesty.

11. Any person who attempts to contravene, or abets a contravention of, any order made or deemed to be made under section 4, shall be deemed to have contravened that order. Attempts etc. to contravene orders.

12. If the person contravening an order made or deemed to be made under section 4 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention. Offences by corporations.

XLV of 1860. **13.** No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code. Cognizance of offences.

[1] These words were inserted by Bom. 7 of 1948, s. 2.

Power to try offences summarily.

14. Any Magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (*1*) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act. V of 1898

Protection of action taken under Act.

15. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4.

(*2*) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4.

Rules.

16. (*1*) The Provincial Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for the manner of publication under clause (*a*) of sub-section (*1*) of section 6 of an order.

SCHEDULE I.

Essential Commodities.

1. Bricks.
2. [1][Cattlefeed of all kinds, including cottonseed, hay, kadbi, green grass, oil cakes, wheat bran, gawar and other concentrates but excluding challa and chuni other than gram chuni.]
3. Charcoal.
[2][4. Firewood.
5. Milk.
6. Ready Made Clothing of all kinds.
7. Cement.
8. Cotton (whether ginned or unginned.)
9. Gunnies and Twine.
10. Mowra seeds and Mawra Oil ;
11. Oil Engines.
12. Ready made Tea.
13. Ready made Coffee.
14. Rice Husk.
15. Sand.
16. Tiles (Mangalore Pattern).
17. Asbesto cement sheets.
18. Timber.
19. Lime.
20. Coke.]

[1] This entry was substituted for the original by G. N., C. S. D., No. 136/I, dated the 28th January 1949.

[2] All the existing entries after entry "3. Charcoal" were deleted and entries 4 to 20 were added by G. N., C.S. D., No. 410/II-B dated the 11th June 1949.

SCHEDULE II.

Cattle.

1. Bulls.
2. Bullocks.
3. Cows.
4. Heifers.
5. Calves.
6. Buffaloes.
7. Goats.
8. Sheep.

THE AHMEDABAD AND SURAT MUNICIPAL ADMINISTRATION VALIDATING ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Validation of acts of persons appointed under section 219 of Bom. XVIII of 1925.
3. Act to apply to pending suits and proceedings.
4. Repeal of Bom. III of 1946.

SCHEDULE.

BOMBAY ACT No. XXIII OF 1946.[1]

[THE AHMEDABAD AND SURAT MUNICIPAL ADMINISTRATION VALIDATING ACT, 1946.]

[*1st October 1946.*]

An Act to validate the acts of certain persons appointed by the Commissioner, Northern Division, to exercise the powers and perform the duties of the Borough Municipalities of Ahmedabad and Surat.

Bom. XVIII of 1925.

WHEREAS the Municipalities of Ahmedabad and Surat were superseded by the Provincial Government by orders made under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925;

AND WHEREAS the Commissioner, Northern Division, from time to time appointed certain persons to exercise and perform all powers and duties of the respective Municipalities during the period of their supersession;

AND WHEREAS the orders made by the Provincial Government for the supersession of the said Municipalities and the appointments made by the Commissioner of the said persons were ineffectual and invalid;

AND WHEREAS various acts have been done by the said persons in the purported exercise and performance of the said powers and duties during the period from the date of the said orders of supersession till the 8th February 1946 (both inclusive);

AND WHEREAS it was necessary and expedient to validate the said acts done by the said persons;

Bom. III of 1946.

AND WHEREAS the Ahmedabad and Surat Municipal Administration Validating Act, 1946, was enacted for the said purpose; but the names of certain persons, appointed by the Commissioner to exercise and perform the powers and duties of the Ahmedabad and Surat Municipalities during the period of their supersession, were not specified in column 3 of the Schedule to the said Act;

AND WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is necessary to re-enact the said Act with certain modifications; It is hereby enacted as follows:—

26 Geo. 5, Ch. 2.

Short title and commencement.

1. (*1*) This Act may be called the Ahmedabad and Surat Municipal Administration Validating Act, 1946.

(*2*) It shall come into force at once.

Validation of acts of persons appointed under section 219 of Bom. XVIII of 1925.

Bom. XVIII of 1925.

2. Notwithstanding that the orders specified in column 1 of the Schedule made by the Provincial Government under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925 (hereinafter referred to as the said Act), for the supersession of the Municipalities specified in column 2 of the said Schedule and the appointments of the persons specified in column 3 thereof made by the Commissioner, Northern Division, from time to time under clause (*b*) of sub-section (*2*) of section 219 of the said Act are ineffectual and invalid, all powers and duties of the respective Municipalities exercised and performed by the said persons during the period from the date of the said orders of supersession till the 8th February 1946 (both inclusive) shall be deemed to be and always to have been validly exercised and performed by the said persons; and no acts done by the said persons during

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, p. 62; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

the said period shall be deemed to be invalid or called in question on the ground merely that the said orders of supersession and appointments were ineffectual and invalid; and the said persons are now hereby indemnified and discharged from liability in respect of such acts.

Act to apply to pending suits and proceedings.

3. The provisions of this Act shall apply notwithstanding the pendency of any suit or other proceeding in any Court of Law, either in a Court of first instance or in a Court of appeal, at the time when the Act comes into force.

Repeal of Bom. III 1946.

4. The Ahmedabad and Surat Municipal Administration Validating Act, 1946, is hereby repealed. Bom. III of 1946.

SCHEDULE.

Orders.	Municipalities.	Persons.
1	2	3
Government Order, General Department, No. 1707, dated the 3rd May 1944.	Surat Municipality ..	(a) Collector of Surat, Sole Administrator. (b) Committee of Management consisting of— 1. Rao Bahadur N. M. Jhaveri (Chairman). 2. Mr. Chhotubhai Gulabdas Vakil. 3. Mr. Kanchanlal Manchharam Khandwala. 4. Mr. Chandulal Maganlal Kapadia. 5. Mr. Jekisondas Jamnadas Rana. 6. Mr. Ratilal Shambhulal Reshamwala. 7. Mr. Mohamadbhai Esufali Badri. 8. Mr. Umarmiya Zenumia Kagzi. 9. Shifa-ul-Mulk Hakim Meer, Serfaraz Hussain, Meer Yawar Hussain. 10. Mr. Gulam Rasul Ahmed Shaikh. 11. Haji Mahmadbhai Abdullabhai Nariclwala. 12. Mr. Abdul Kadar Mahmad Shaikh. 13. Mr. M. C. Benson. 14. Mr. Mithabhai Palji. 15. Sardar Sheriar B. Modi.
Government Order, General Department, No. 1825, dated the 3rd May 1944.	Ahmedabad Municipality.	(a) Diwan Bahadur M. S. Moulvi, Sole Administrator. (b) Committee of Management consisting of— 1. Diwan Bahadur M. S. Moulvi (Chairman). 2. Sir Mahbubmiya I. Kadri, Kt., O.B.E 3. Mr. Ahmedmia S. Shaikh. 4. Mr. Abdulla M. Yamani. 5. Mr. Mahmod Habib A. Valiullah. 6. Mr. Abdul Rehmankhan Risaldar. 7. Mr. Doulatram U. Shah. 8. Diwan Bahadur Ratilal J. Lakhia. 9. Rao Saheb Manoklal Chunilal Patel. 10. Mr. Champaklal C. Bhatt. 11. Mr. Karsondas M. Leuva. 12. Khan Bahadur Hormasji Pestonji Chahewala, O.B.E. (c) Committee of Management consisting of— 1. Diwan Bahadur M. S. Moulvi (Chairman). 2. Sir Mahbubmiya I. Kadri, Kt., O.B.E. 3. Mr. Ahmedmia S. Shaikh. 4. Mr. Abdulla M. Yamani. 5. Mr. Mahmod Habib A. Valiullah. 6. Mr. Abdul Rehmankhan Risaldar. 7. Mr. Doulatram U. Shah. 8. Diwan Bahadur Ratilal J. Lakhia. 9. Rao Saheb Nathalal Nanalal Dave. 10. Mr. Champaklal C. Bhatt. 11. Mr. Karsondas M. Leuva. 12. Khan Bahadur Hormasji Pestonji Chahewala, O.B.E.

THE BOMBAY PREVENTION OF HINDU BIGAMOUS MARRIAGES ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent
2. Application of Act.
3. Definitions.
4. Bigamous marriages to be void.
5. Penalty for bigamous marriage.
6. Penalty for solemnising bigamous marriage.
7. Penalty for person having charge of minor concerned in bigamous marriage.
8. Jurisdiction for offences under section 5.

8A. Jurisdiction for offences under sections 6 and 7.

9. Offences under this Act to be cognizable.

BOMBAY ACT No. XXV OF 1946.[1]

[THE BOMBAY PREVENTION OF HINDU BIGAMOUS MARRIAGES ACT, 1946.]

[*6th November 1946.*]

Amended by Bom. 38 of 1948.
26 of 1949.

An Act to provide for the prevention of bigamous marriages among Hindus.

WHEREAS it is expedient to provide for the prevention of bigamous marriages among Hindus ; It is hereby enacted as follows :—

1. (*1*) This Act may be called the Bombay Prevention of Hindu Bigamous Marriages Act, 1946. Short title and extent.

(*2*) It extends to the whole of the Province of Bombay.

2. The provisions of this Act shall apply to Hindus only. Application of Act.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) " bigamous marriage " means the marriage of a person during the lifetime of his or her spouse, if the marriage of such person with such spouse has not been dissolved or declared void by a court of competent jurisdiction [2][or has not been dissolved], or is not void according to the custom or usage of the community to which either of the parties to such marriage belongs ; [3][but does not include the marriage of a person during the lifetime of his or her spouse, if such spouse at the time of such marriage shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time provided that the person contracting such marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted of the real state of facts so far as the same are within his or her knowledge ;]

(*2*) " Hindu " includes a Sikh, Jain, Buddhist, a follower of the Arya or Brahma Samaj or a convert to Hinduism.

(*3*) " minor " means any person who is under sixteen years of age.

4. Notwithstanding any law, custom or usage to the contrary, a bigamous marriage shall be void,— Bigamous marriages to be void.

(*a*) if it is contracted in this Province after the coming into force of this Act,

(*b*) if it is contracted beyond the limits of this Province after the coming into force of this Act and either or both the contracting parties to such marriage are domiciled in this Province.

5. Notwithstanding any law, custom or usage to the contrary, whoever not being a minor contracts a bigamous marriage which is void under section 4 [4][shall, on conviction, be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.] Penalty for bigamous marriage.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 70 ; for Report of the Select Committee, *see, ibid*, pp. 143-144; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

[2] These words were inserted by Bom. 26 of 1949, s. 2.

[3] These words were added by Bom. 38 of 1948, s. 2.

[4] These words were substituted for the original, *ibid.*, s. 3.

Penalty for solemnising bigamous marriage.

6. Whoever performs, conducts or abets any bigamous marriage in this Province shall, on conviction, be punishable with imprisonment of either discription for a term which may extend to six months or with fine or with both, unless he proves that he had reason to believe that the marriage was not a bigamous marriage.

Penalty for person having charge of minor concerned in bigamous marriage.

7. (*1*) When a minor contracts a bigamous marriage which is void under section 4, any person having charge of the minor, whether as parent or guardian or in any other capacity, lawful or otherwise, who does any act to promote the marriage, or permits it to be solemnised or negligently fails to prevent it from being solemnised shall, on conviction, be punishable with imprisonment of either description for a term which may extend to six months or with fine or with both.

(*2*) For the purposes of this section, it shall be presumed, unless and until the contrary is proved, that where a minor has contracted a bigamous marriage which is void under section 4, the person having charge of such minor, whether as parent or guardian, or in any other capacity, lawful or otherwise, has negligently failed to prevent the marriage from being soleminised.

Jurisdiction for offences under section 5.

[1][**8.** Notwithstanding anything contained in the Code of Criminal Procedure, V of 1898, an offence under section 5 may be tried by any Court of a Presidency Magistrate or a Magistrate of the First Class.

Jurisdiction for offences under sections 6 and 7.

8A. Notwithstanding anything contained in the Code of Criminal Procedure, V of 1898, no Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall try any offence punishable under section 6 or 7.]

Offences under this Act to be cognisable.

9. Offences under this Act shall be congnisable.

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[1] These sections were substituted for section 8, by Bom. 38 of 1948, s. 4.

THE BOMBAY COTTON (STATISTICS) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Delivery of yearly returns of cotton.
4. Right of access, inspection and search.
5. Use of returns or information.
6. Restriction on publication of returns and information.
7. Penalties.
8. Penalty for improper disclosure of information or returns.
9. Cognisance of offences.
10. Protection for acts done in good faith.
11. Offence by corporation.
12. Exemptions.
13. Power to make rules.

BOMBAY ACT No. XXVII OF 1946.[1]

[THE BOMBAY COTTON (STATISTICS) ACT, 1946]

[*18th November 1946.*]

An Act to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

WHEREAS it is expedient to facilitate the collection of statistics of stocks of Indian raw cotton in the Province; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Cotton (Statistics) Act, 1946.

(*2*) It extends to the whole of the Province.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context :—

(*a*) "cotton" means Indian raw cotton (including seed-cotton, lint and fly);

(*b*) "Director" means the Director of Agriculture, Province of Bombay;

(*c*) "owner" means the owner of a cotton ginning factory or a cotton pressing factory;

(*d*) "trader" means a person other than an owner, carrying on the business of buying or selling cotton for the purposes of gain or profit and includes—

(*i*) a manufacturer, or

(*ii*) an importer,

who carries on such business,

(*iii*) a broker or commission agent who contracts for the sale or purchase of cotton for others and stocks cotton on their behalf;

(*e*) "year" means a year commencing on the 1st day of September;

(*f*) the expressions "cotton ginning factory" and "cotton pressing factory" have the meanings assigned to them by the Cotton Ginning and Pressing Factories Act, 1925.

XII of 1925.

Delivery of yearly returns of cotton.

3. (*1*) Every trader and every owner shall on or before 15th September each year submit to the Director, through such officer as the Provincial Government may by notification in the *Official Gazette* from time to time specify, a return in the prescribed form of the quantity of cotton in his possession on the last day of the previous year :

Provided that the Provincial Government may, in any year by notification in the *Official Gazette*, fix any later date for the submission of returns.

(*2*) Every return submitted under sub-section (*1*) shall be signed by the person submitting it.

Right of access, inspection and search.

4. The Director and any person authorised by him in writing in this behalf shall have access to every relevant document, book of account or other record in the possession of a trader or owner and may at any reasonable time with or without notice to the trader or owner, as the case may be, examine and take copies of, or extracts from, the document, book of account or record for the purpose of testing the accuracy of any return made under section 3. The Director and person so

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 67; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

authorised may ask any question and make any enquiry necessary for obtaining any information required for the aforesaid purpose and shall also have access to any premises where he has reason to believe that cotton is stocked.

Use of returns or information.

5. The Director may use returns made under section 3 and information obtained under section 4 for—

(*a*) compiling statistics required by the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923; XIV of 1923.

(*b*) such purposes in respect of the matters enumerated in List II of the Seventh Schedule to the Government of India Act, 1935, as the Provincial Government may direct. 26 Geo. Ch. 2.

Restriction on publication of returns and information.

6. (*1*) No return, and no part of any return, and no information obtained for the purposes of this Act shall, without the previous consent in writing of the trader or owner concerned, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular cotton ginning or pressing factory or the business of a particular trader.

(*2*) Except for the purposes of a prosecution under this Act or under the Indian Penal Code, no person not connected with the checking of returns or the collection of information under this Act shall be permitted to see any return or information referred to in sub-section (*1*). XLV of 1860.

Penalties.

7. If any person—

(*a*) wilfully refuses or without lawful excuse neglects to deliver a return under section 3, or

(*b*) wilfully delivers or causes to be delivered any such return which he knows to be false, or

(*c*) refuses to answer or wilfully gives a false answer to any question or enquiry necessary for obtaining any information for the purposes of this Act, or

(*d*) impedes the right of access to a relevant document, book of account or other record, or the right of entry conferred by section 4,

he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues; and in respect of a false return or answer the offence shall be deemed to continue until a true return or answer has been delivered or given.

Penalty for improper disclosure of information or returns.

8. Any person connected with the checking of returns or collection of information under this Act, who, otherwise than in the execution of his duties under this Act or for the purpose of the prosecution of an offence under this Act or under the Indian Penal Code, wilfully discloses any information given, or the contents of any return made, under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. XLV of 1860.

Cognisance of offences.

9. No prosecution under section 7 shall be instituted except by or with the previous sanction in writing of the Director, and no prosecution under section 8 shall be instituted except by or with the previous sanction in writing of the Provincial Government.

Protection for acts done in good faith.

10. No suit or other legal proceeding shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

11. If the person contravening any of the provisions of this Act is a company or other body corporate, the secretary, manager or other principal officer managing the affairs of such company or body, as the case may be, shall be deemed to be guilty of such contravention. Offence by corporation.

12. The Provincial Government may by general or special order exempt any trader or class of traders from the operation of this Act. Exemptions.

13. (*1*) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. Power to make rules.

(*2*) Without prejudice to the generality of the foregoing powers, rules may be made under this section—

(*a*) prescribing the form in which a return under section 3 shall be delivered, and

(*b*) regulating the exercise of the right of access to books of account, records and documents and the right of entry conferred by section 4.

THE PREVENTION OF CRUELTY TO ANIMALS, THE BOMBAY DISTRICT POLICE AND THE CITY OF BOMBAY POLICE (AMENDMENT) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Repeal of amendments made by Bom. XIII of 1922, Bom. IX of 1923, Bom. XI of 1928 and Bom. III of 1933 in Act XI of 1890.
3. Amendment of section 6-B of Act XI of 1890.
4. Amendment of section 11 of Act XI of 1890.
5. Amendment of section 51A of Bom. IV of 1890—(*not printed.*)
6. Amendment of section 33 of Bom. IV of 1902—(*not printed.*)

BOMBAY ACT No. XXVIII OF 1946.[1]

[THE PREVENTION OF CRUELTY TO ANIMALS, THE BOMBAY DISTRICT POLICE AND THE CITY OF BOMBAY POLICE (AMENDMENT) ACT, 1946.]

[*20th November 1946.*]

An Act to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

XI of 1890. Bom. IV of 1890. Bom. IV of 1902.

WHEREAS it is expedient to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Act, 1946.

Bom XIII of 1922. Bom. IX of 1923. Bom. III of 1933. Bom. XI of 1928. XI of 1890.

Repeal of amendments made by Bom. XIII of 1922, Bom. IX of 1923, Bom. XI of 1928 and Bom. III of 1933 in Act XI of 1890.

2. The Prevention of Cruelty to Animals (Bombay Amendment) Act, 1922, the Prevention of Cruelty to Animals (Bombay Amendment) Act, 1923, and the Prevention of Cruelty to Animals (Bombay Amendment) Act, 1933, and the amendments made by these Acts and by the Bombay Repealing and Amending Act, 1928, in the Prevention of Cruelty to Animals Act, 1890 (hereinafter referred to as the principal Act), are hereby repealed.

Amendment of section 6-B of Act XI of 1890.

3. In section 6-B of the principal Act—

(*i*) in sub-section (*4*), after the words "an animal", the words, brackets and figures "for purposes of examination by the Veterinary Officer referred to in sub-section (*2*) or (*3*), or" shall be inserted;

(*ii*) for sub-section (*5*), the following shall be substituted, namely:—

"(*5*) (*a*) If, in the case of an animal directed to be destroyed or sent to a *pinjrapole* under sub-section (*2*) the owner refuses or neglects to pay the costs which he is liable to pay under sub-section (*4*), such costs shall be recoverable from him as a fine on the order of a Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such costs should not be recovered;

(*b*) if, in the case of an animal directed to be sent to an infirmary under sub-section (*2*) and certified under sub-section (*3*) to be fit for discharge from the infirmary, the owner refuses or neglects to remove the animal within such time as a Magistrate may prescribe or to pay the costs which he is liable to pay under sub-section (*4*), the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such costs.";

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 57; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

(*iii*) after sub-section (*6*), the following shall be inserted, namely :—

" (*7*) If the costs payable by the owner under sub-section (*4*) shall exceed the proceeds of such sale, the excess amount to such extent as shall seem reasonable to the Magistrate shall be recoverable from the owner as a fine on the order of the Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such amount should not be recovered".

Amendment of section 11 of Act XI of 1890.

4. In section 11 of the principal Act, after the words " offence to ", the words " abandon or " shall be inserted.

5-6. [*The amendments made by sections 5 and 6 of this Act have been incorporated in the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, respectively.*]

THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Amendment of section 528 of Act V of 1898.

3. Amendment of Schedule II to Act V of 1898.

BOMBAY ACT No. XXX OF 1946.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1946.]

[*4th December 1946.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1946. Short title.

V of 1898. 2. In section 528 of the Code of Criminal Procedure, 1898, hereinafter called the said Code, for sub-section (*6*) the following sub-section shall be substituted, namely :— Amendment of section 528 of Act V of 1898.

"(*6*) For the purposes of this section, a Police-patel appointed under section 5 of the Bombay Village Police Act, 1867, shall be a Magistrate subordinate to the District Magistrate". Bom. VIII of 1867.

3. In Schedule II to the said Code— Amendment of Schedule II to Act V of 1898.

(*a*) in the third column in the entry relating to section 161 for the words "Shall not" the word "May" shall be substituted; and

(*b*) in the third column in the entry relating to section 166 for the word "Ditto" the words "Shall not arrest without warrant" shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 127; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

THE BOMBAY HOME GUARDS ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Constitution of Home Guards and appointment of Commandant.
3. Appointment of members.
4. Functions of members.
5. Powers, protection and control.
6. Control by officers of police force.
7. Penalty.
8. Rules.
9. Members of Home Guards to be public servants.
10. Repeal and saving.

BOMBAY ACT No. III OF 1947.[1]

[THE BOMBAY HOME GUARDS ACT, 1947.]

[*22nd March 1947.*]

An Act to provide for the constitution of Home Guards.

WHEREAS it is expedient to provide a volunteer organisation for use in emergencies and for other purposes in the Province of Bombay ; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Home Guards Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force at once in the area of Greater Bombay and the area comprising limits of the municipal borough and the cantonment of Ahmedabad. The Provincial Government may by notification in the *Official Gazette* direct that it shall come into force in any other area on such date as may be specified in such notification.

Constitution of Home Guards and appointment of Commandant.

2. (*1*) The Provincial Government shall constitute for each of the areas specified in sub-section (*3*) of section 1 and for each of the areas notified under the said sub-section (*3*) a volunteer body called the Home Guards, the members of which shall discharge such functions in relation to the protection of persons, the security of property and the public safety as may be assigned to them in accordance with the provisions of this Act and the rules made thereunder.

(*2*) The Provincial Government shall appoint a Commandant of each of the Home Guards constituted under sub-section (*1*).

Appointment of members.

3. The Commandant may appoint as members of the Home Guards such number of persons, who are fit and willing to serve, as may from time to time be determined by the Provincial Government, and may appoint any such member to any office of command in the Home Guards.

Functions of members.

4. In Greater Bombay, the Commissioner of Police, Bombay, and elsewhere, the District Superintendent of Police concerned, may at any time call out through the Commandant a member of the Home Guards for training or to discharge any of the functions assigned to the Home Guards in accordance with the provisions of this Act and the rules made thereunder.

Powers, protection and control.

5. (*1*) A member of the Home Guards when called out under section 4 shall have the same powers, privileges and protection as an officer of police appointed under any Act for the time being in force.

(*2*) No prosecution shall be instituted against a member of the Home Guards in respect of anything done or purporting to be done by him in the discharge of his functions as such member, except with the previous sanction of the Commissioner of Police, Bombay, in Greater Bombay, and of the District Magistrate, elsewhere.

Control by officers of police force.

6. The members of the Home Guards when called out under section 4 in aid of the police force shall be under the control of the officers of the police force in such manner and to such extent as may be prescribed by rules made under section 8.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V page, 25 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

Penalty.

7. (*1*) If any member of the Home Guards, on being called out under section 4, without sufficient excuse, neglects or refuses to obey such order, or to discharge his functions as a member of the Home Guards, or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction, be punishable with simple imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees or with both.

(*2*) No proceedings shall be instituted under sub-section (*1*) without the previous sanction of the Commandant.

(*3*) A police officer may arrest without warrant any person who commits an offence punishable under sub-section (*1*).

Rules.

8. The Provincial Government may make rules consistent with this Act,—

(*a*) providing for the exercise by any police officer or the Commandant or other officer of the Home Guards of the powers conferred by section 4 on the Commissioner of Police, Bombay, or the District Superintendent of Police;

(*b*) providing for the exercise of control by officers of the police force over members of the Home Guards when acting in aid of the police force;

(*c*) regulating the organisation, appointment, conditions of service, functions, discipline, arms, accoutrements and clothing of members of the Home Guards and the manner in which they may be called out for service;

(*d*) regulating the exercise by members of the Home Guards of any of the powers exercisable under section 5 of this Act;

(*e*) generally for giving effect to the provisions of this Act.

Members of Home Guards to be public servants.

9. Members of the Home Guards acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Repeal and saving.

10. The Bombay Home Guards Ordinance, 1946, is hereby repealed: Bom. Ordinance No. 1 of 1946.

Provided that the Home Guards constituted under the said Ordinance shall be deemed to be constituted under this Act; and all appointments and rules made under the said Ordinance and in force immediately before the coming into operation of this Act shall continue in force and be deemed to be made in pursuance of this Act.

THE BOMBAY PUBLIC SECURITY MEASURES ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and duration.

I. Detention, etc.

2. Power to make orders detaining or restricting movements or actions of persons.

3. Grounds of order to be disclosed to person affected.

4. Orders on representation.

5. Control of essential services.

II. Collective fines.

6. Imposition of collective fine.

III. Control of camps, etc., and uniforms.

7. Control of camps, parades, etc.

8. Banning use of certain uniforms, etc.

IV. Whipping.

9. Punishment of whipping for certain offences.

IV-A. Control of Publications, etc.

9A. Control of publications, etc.

IV-B. Control of Commodities, etc.

9B. Control of commodities, etc.

V. Special Courts.

10. Special Courts.

11. Special Judges.

12. Jurisdiction of Special Judges.

SECTIONS.

13. Procedure of Special Judges.

14. Evidence on commission.

15. Enhanced punishment for certain offences.

16. Sentences by Special Judges.

17. Special rule of procedure.

18. Appeal, revision and confirmation.

19. Application of ordinary law.

20. Trials before Special Judge not to be by Jury or with Assessors.

VI. Miscellaneous.

21. Delegation of powers and duties of Provincial Government.

22. Power to arrest without warrant.

23. Repeal of Bom. Ordinances II of 1946 and I of 1947.

24. Indemnity.

25. Rules.

VII. Amendments to Acts.

26. Amendment of section 9 of Act IV of 1871.

27. Insertion of new section 16A in Act XIV of 1908.

28. Amendment of section 42 of Bom. IV of 1890 and of section 23 Bom. IV of 1902.

BOMBAY ACT No. VI OF 1947.[1]

[THE BOMBAY PUBLIC SECURITY MEASURES ACT, 1947.]

[*23rd March 1947.*]

Amended by Bom. 17 of 1948.
" " " 30 of 1948.

An Act to consolidate and amend the law relating to public safety, maintenance of public order and the preservation of peace and tranquillity in the Province of Bombay.

WHEREAS it is expedient to consolidate and amend the law relating to public safety, maintenance of public order and the preservation of peace and tranquillity in the Province of Bombay; It is hereby enacted as follows:—

Short title, extent and duration.

1. (*1*) This Act may be called the Bombay Public Security Measures Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall remain in force for a period of [2][three] years.

(*4*) The Provincial Government may by notification published in the *Official Gazette* direct that all or any of its provisions shall come into force in the whole of the Province of Bombay or in any area in the Province of Bombay on such date as may be specified in the notification and may by like notification direct that the same shall cease to be in force on such date as may be specified in the notification.

I. Detention, etc.

Power to make orders detaining or restricting movements or actions of persons.

2. [3][(*A1*) Any police officer not below the rank of the Superintendent of Police in Greater Bombay or the Deputy Superintendent of Police elsewhere, authorized in this behalf by the Provincial Government by general or special order may, if he is satisfied that any person is acting or is likely to act in a manner prejudicial to the public safety, the maintenance of public order or the tranquillity of the Province or any part thereof, arrest or cause to be arrested such person without warrant and direct that he shall be committed to such custody as such officer may deem fit for a period not exceeding fifteen days; and such police officer shall forthwith report the fact of such arrest to the Provincial Government.]

(*1*) The Provincial Government may, if it is satisfied that any person [4][including a person arrested under sub-section (*A1*), was acting, is acting or is likely to act] in a manner prejudicial to the public safety, the maintenance of public order, or the tranquillity of the Province or any part thereof, make an order—

(*a*) directing that he be detained;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, pp. 123-124; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

[2] The word "three" was substituted for the word "two" by Bom. 30 of 1948, s. 2.

[3] Sub-section (A1) was inserted, *ibid.*, s. 3 (*i*).

[4] These words, brackets, letter and figure were substituted for the words "is acting," *ibid.*, s. 3 (*ii*).

(*b*) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in the Province as may be specified in the order;

(*c*) requiring him to reside or remain in such place or within such area in the Province as may be specified in the order and, if he is not already there, to proceed to that place or area within such time as may be specified in the order;

(*d*) requiring him to notify his movements or to report himself or to do both in such manner, at such times and to such authority or person, as may be specified in the order;

(*e*) imposing upon him such restrictions as may be specified in the order, in respect of his employment or business or association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinion;

(*f*) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order.

(*2*) An order made under sub-section (*1*) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due observance of the restrictions or conditions specified in the order.

[1][(*2A*) When any person is detained under an order made under clause (*a*) of sub-section (*1*), the Provincial Government may, notwithstanding anything contained in sub-section (*1*), in lieu of such order make any such order as is discribed in clause (*b*), (*c*) or (*d*) of the said sub-section.]

(*3*) If any person is found in any area or place in contravention of an order made under the provisions of this section, or fails to leave any area or place in accordance with the requirements of such order, he may, without prejudice to the provisions of sub-section (*6*), be removed by any police officer from such area or place.

(*4*) So long as there is in force in respect of any person an order under clause (*a*) of sub-section (*1*), he shall be liable to be removed to, and detained in, such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Provincial Government may from time to time by general or special order specify.

(*5*) If the Commissioner of Police, Bombay, or the District Magistrate, or the Additional District Magistrate has reason to believe that a person in respect of whom an order has been made under clause (*a*) of sub-section (*1*) has absconded or is concealing himself or is otherwise delaying or frustrating the execution of the order, he may—

(*a*) make a report in writing of the fact to a Presidency Magistrate or a Magistrate of the first class, as the case may be, having jurisdiction in the place where the said person ordinarily resides; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, hereinafter referred to as the Code, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate, or V of 1898.

[1] Sub-section (*2A*) was inserted by Bom. 30 of 1948, s. 3 (*iii*).

(*b*) by a direction notified in the *Official Gazette*, require the said person to appear before him at such place, and within such period, as may be specified in the direction; and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply with it and that he had within the period specified in it, informed the Commissioner of Police, or the District Magistrate, or the Additional District Magistrate, as the case may be, of his whereabouts and of the reasons which rendered compliance with it impossible, be punishable, on conviction, with imprisonment for a term which may extend to one year, or with fine, or with both.

(*6*) If any person contravenes any order made under this section he shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section (*2*), his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the Court why such penalty should not be paid.

Grounds of order to be disclosed to person affected.

3. Where an order is made in respect of any person under clause (*a*) of sub-section (*1*) of section 2, the Provincial Government [1][may, upon application by the person affected by the order, communicate to him] the grounds on which the order has been made, without disclosing facts which it considers against the public interest to disclose, and such [2]** particulars as are in its opinion sufficient to enable him to make a representation to the Provincial Government against the order and [3][afford him the earliest opportunity of making such representation].

Orders on representation.

4. On receipt of a representation under section 3, the Provincial Government may either annul or confirm the order or modify it or make any other order which it could have made under sub-section (*1*) of section 2.

Control of essential services.

26 Geo. 5, Ch. 2.

5. (*1*) If the Provincial Government is of opinion that any employment under the Provincial Government or any other employment or class of employment connected with any matter specified in List II or List III in the Seventh Schedule to the Government of India Act, 1935, is essential for purposes of public safety, the maintenance of public order or maintaining supplies or services essential to the life of the community, it may notify such employment or class of employments in the *Official Gazette* accordingly and may direct, by general or special order, that any person or persons engaged in such employment or class of employments shall not depart out of such area or areas as may be specified in such order.

(*2*) An order made under sub-section (*1*) shall be published in such manner as the Provincial Government considers best calculated to bring it to the notice of the persons affected by the order.

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[1] These words were substituted for the words "shall, as soon as may be, communicate to the person affected by the order" by Bom. 30 of 1948, s. 4(*a*).

[2] The word "other" was deleted, *ibid.*, s. 4 (*b*).

[3] These words were substituted for the words "inform him of his right to make such representation and afford him the earliest opportunity of doing so", *ibid*, s. 4 (*c*).

(*3*) Where any employment or class of employments has been notified under sub-section (*1*),

(*i*) every person engaged in such employment,

(*a*) who disobeys any lawful order given to him in the course of such employment, or

(*b*) who without justifiable excuse abandons such employment or absents himself from work, or

(*c*) who departs from any area specified in an order under sub-section (*1*) without the permission of the Provincial Government, and

(*ii*) every employer in such employment who, without justifiable excuse—

(*a*) discontinues the employment of any person engaged in such employment, or

(*b*) causes the discontinuance of the employment of any person engaged in such employment by closing an establishment in which he is engaged,

shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

Explanation 1.—Abandonment of employment or absence from duty by any person merely for fear of molestation, intimidation or assault by any person or class of persons shall not constitute a justifiable excuse within the meaning of clause (*i*) (*b*).

Explanation 2.—A person abandons his employment within the meaning of clause (*i*) (*b*), who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of the Commissioner of Police, or the District Magistrate, or the Additional District Magistrate.

(*4*) If the person contravening any of the provisions of this section is a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

(*5*) Where any person is prosecuted under clause (*i*) (*b*) or clause (*ii*) of sub-section (*3*), the burden of proving that he had a justifiable excuse shall be on him.

II. Collective fines.

Imposition of collective fine.

6. (*1*) If the Provincial Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of offences affecting the public safety or the maintenance of public order, or the maintenance of supplies or services essential to the life of the community or are harbouring persons concerned in the commission of such offences, or are failing to render all the assistance in their power to discover or apprehend the offender or offenders, or are suppressing material evidence of the commission of such offences, the Provincial Government may, by notification in the *Official Gazette*, impose a collective fine on the inhabitants of that area.

(*2*) Any officer empowered in this behalf by the Provincial Government by general or special order may exercise the power conferred by sub-section (*1*) on the Provincial Government.

(*3*) The Provincial Government may make rules prescribing the manner in which an order made by an officer empowered under sub-section (*2*) shall be published.

(*4*) The Provincial Government or any officer empowered under sub-section (*2*) may exempt any person or class or section of such inhabitants from liability to pay any portion of any fine imposed under this section.

(*5*) The officer empowered under sub-section (*2*), or if there is no such officer, the Commissioner of Police, or the District Magistrate, or the Additional District Magistrate, as the case may be, shall, after such enquiry as he may deem necessary, apportion such fine in such manner as is deemed proper among the inhabitants who are liable collectively to pay it.

(*6*) In any such apportionment the officer empowered under sub-section (*2*) or the Commissioner of Police or the District Magistrate or the Additional District Magistrate may fix the fine to be paid by a Hindu undivided family.

(*7*) The fine payable by any person (including a Hindu undivided family) may be recovered—

(*a*) in the manner provided by the Code for the recovery of fines imposed by a Court, as if such fine were a fine imposed by a Court:

Provided that the Provincial Government may, in lieu of the rules referred to in sub-section (*2*) of section 386 of the Code, make rules under this Act regulating the manner in which warrants, under clause (*a*) of sub-section (*1*) of the said section 386 are to be executed for recovering the fine imposed under this section, and for the summary determination of any claims made by any person other than the person liable to pay the fine in respect of any property attached in execution of the warrant; or

(*b*) as arrears of land revenue.

[1][(*8*) The Provincial Government or the officer empowered under sub-section (*2*) or if there is no such officer, the Commissioner of Police, the District Magistrate or the Additional District Magistrate, as the case may be, may, after making such enquiry as may be deemed necessary, refund either wholly or in part any fine paid by, or recovered from, any person under this section.]

III. Control of camps, etc., and uniforms.

Control of camps, parades, etc.

7. (*1*) The Provincial Government may, by general or special order, prohibit or restrict in any area any exercise, movement, evolution or drill of a military nature specified in the order.

(*2*) With a view to securing that no unauthorized exercise, movement, evolution or drill of a military nature is performed at any place, the Provincial Government may, by general or special order, prohibit, restrict or impose conditions on the holding of, or taking part in, any camp, parade, meeting, assembly or procession, by any class of persons or organisations specified in the order.

(*3*) If any person contravenes any order made under this section, he shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine or with both

[1] Sub-section (*8*) was added by Bom. 17 of 1948, s. 2.

Banning use of certain uniforms, etc.

8. (*1*) If the Provincial Government is satisfied that the wearing in public of any dress or article of apparel resembling any uniform or part of a uniform required to be worn by a member of His Majesty's forces or by a member of any police force or of any force constituted under any law for the time being in force would be likely to prejudice the public safety, or the maintenance of public order, the Provincial Government may, by general or special order, prohibit or restrict the wearing, or display in public, of any such dress or article of apparel.

(*2*) For the purposes of this section, a dress or an article of apparel shall be deemed to be worn or displayed in public if it is worn or displayed in any place to which the public have access.

(*3*) If any person contravenes any order made under this section, he shall, on conviction, be punishable with imprisonment for a term which may extend to three years or with fine or with both.

IV. Whipping.

Punishment of whipping for certain offences.

9. Whoever contravenes the provisions of any order lawfully promulgated under clause (*a*) of sub-section (*2*) of section 23 of the City of Bombay Police Act, 1902, prohibiting the carrying of swords, spears, bludgeons, guns, knives, sticks or lathis, or any other weapon capable of being used as a weapon of offence, or of any corrosive substance or any explosive or disobeys any order lawfully made under section 42 of the Bombay District Police Act, 1890, prohibiting the carrying of arms, cudgels or other weapons or of corresive substances or explosives may be punished with whipping in addition to any other punishment to which he may for such offence be liable under the said Acts.

Bom. IV of 1902.

Bom. IV of 1890.

[1][*IV-A. Control of Publications, etc.*

Control of publications, etc.

[1]9A. (*1*) If the Provincial Government is satisfied that such action is necessary for the purpose of preventing any activity prejudicial to the public safety, the maintenance of public order or the tranquillity of the Province or any part thereof, the Provincial Government may,—

(*a*) by order in writing prohibit either absolutely or for a specified period the bringing into, or sale or distribution or circulation within, the Province of any newspaper, periodical, book or document specified in the order;

(*b*) by an order in writing addressed to any printer, publisher or editor or generally to all printers, publishers or editors or to such class of printers, publishers or editors as may be specified therein—

(*i*) prohibit either absolutely or for a specified period the printing or publication of any matter relating to a particular subject or class of subjects in any particuar issue or issues of a newspaper or periodical or in any book or in any other document whatsoever;

(*ii*) require that any matter relating to or arising out of any matter published in any previous issue of any newspaper or periodical be published in any particular issue of such newspaper or periodical in such manner as may be specified in the order;

(*iii*) require that any matter relating to a particular subject or class of subjects shall be submitted before publication for scrutiny to an officer specified in the order;

(*iv*) prohibit either absolutely or for a specified period the publication of any newspaper, periodical, book or any other document whatsoever or the use of any press.

[1] The headings and sections 9A and 9B were inserted by Bom. 30 of 1948, s. 5.

(*2*) The officer referred to in sub-clause (*iii*) of clause (*b*) of sub-section (*1*) may, after scrutiny of the matter, issue a direction either prohibiting its publication or permitting its publication with such modifications as he may deem necessary.

(*3*) If any person contravenes any order or direction made under this section, he shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine or with both.

(*4*) Where it appears to the Provincial Government that an order or direction made under this section is contravened, the Provincial Government may, without prejudice to the penalty prescribed in sub-section (*3*), direct that any copy wherever found of the newspaper or periodical or any issue thereof, or book or other document, in respect of which the order or direction appears to have been contravened or any printing press or other instrument or apparatus used in the printing or production of any such newspaper, periodical, book or document shall be seized and detained.

[1]*IV-B. Control of Commodities, etc.*

[1]**9B.** (*1*) If, in the opinion of the Provincial Government, it is essential for the purposes of public safety, the maintenance of public order or the tranquillity of the Province or any part thereof, to restrict the removal of any commodity, article or thing from the Province or such part, the Provincial Government may, by a general or special order, direct that no person shall remove such commodity, article or thing from the Province or such part without the permission in writing in Greater Bombay of the Commissioner of Police for Greater Bombay and elsewhere of the District Magistrate. Control of commodities, etc.

(*2*) If any person contravenes any order made under sub-section (*1*), he shall, on conviction, be punishable with imprisonment for a term which may extend to one year or with fine or with both.]

V. Special Courts.

10. The Provincial Government may by notification in the *Official Gazette* constitute Special Courts of criminal jurisdiction for such area as may be specified in the notification. Special Courts.

11. The Provincial Government may appoint a Special Judge to preside over a Special Court constituted under section 10 for Greater Bombay any person who is a Judge of the High Court and for any other area any person who has been a Sessions Judge for a period of not less than two years under the Code. Special Judges.

12. A Special Judge shall try such offences or class of offences or such cases or class of cases as the Provincial Government may, by general or special order in writing, direct. Jurisdiction of Special Judges.

13. (*1*) A Special Judge may take cognizance of offences without the accused being committed to his Court for trial. Procedure of Special Judges.

(*2*) A Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material and shall not be bound to adjourn any trial for any purpose unless such adjournment is, in his opinion, necessary in the interests of justice.

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[1] The headings and sections 9A and 9B were inserted by Bom. 30 of 1948, s. 5.

(*3*) In matters not coming within the scope of sub-sections (*1*) and (*2*), the provisions of the Code, in so far as they are not inconsistent with the provisions of sections 10 to 20, shall apply to the proceedings of a Special Judge; and for the purposes of the said provisions, the Court of the Special Judge shall be deemed to be a Court of Session.

Evidence on Commission.

14. If a person whose evidence is considered essential by a Special Judge is, in his opinion, not in a position to attend the Court of the Special Judge to give evidence, the Special Judge may in his discretion direct that his evidence may be recorded on commission by a person specially deputed for the purpose.

Enhanced punishment for certain offences.

15. Notwithstanding anything contained in the Indian Penal Code, whoever commits an offence of attempt to murder may, in lieu of any punishment to which he is liable under the said Indian Penal Code, be punishable with death; and whoever commits an offence of voluntarily causing hurt by stabbing may, in lieu of any punishment to which he is liable under the said Indian Penal Code, be punishable with death or transportation for life. XLV of 1860.

Sentences by Special Judges.

16. A Special Judge may pass any sentence authorized by law.

Special rule of procedure.

17. Notwithstanding anything contained in section 386 of the Code, where any offender has been sentenced by a Special Judge to pay a fine, it may be recovered by the issue of a warrant for the levy of the amount by attachment and sale of any property moveable or immovable of the offender.

Appeal, revision and confirmation.

18. Notwithstanding the provisions of the Code, or of any other law for the time being in force, or of anything having the force of law by whatsoever authority made or done—

(*1*) any person convicted on a trial held by a Special Judge may appeal to the High Court within a period of fifteen days from the date of sentence;

(*2*) the High Court may call for the record of the proceedings of any case tried by a Special Judge and may in respect of such case exercise any of the powers conferred on a court of appeal by sections 423, 426, 427 and 428 of the Code; and

(*3*) no court shall have jurisdiction to transfer any case from any Special Judge or to make any order under section 491 of the Code in respect of any person triable by a Special Judge or, save as herein otherwise provided, have jurisdiction of any kind in respect of proceedings of any Special Judge.

Application of ordinary law.

19. The provisions of the Code and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of sections 10 to 20, shall apply to all matters connected with, arising from, or consequent upon, a trial by a Special Judge appointed under section 11.

Trials before Special Judge not to be by Jury or with Assessors.

20. Notwithstanding anything contained in the Code, the trial of offences before a Special Judge shall not be by Jury or with the aid of Assessors.

VI. Miscellaneous.

21. The Provincial Government may by order direct that any power or duty, which is conferred or imposed on the Provincial Government, shall in such circumstances and under such conditions, if any, as may be specified in the order, be exercised or discharged by any officer or authority subordinate to it [1][not being in the opinion of the Provincial Government below the rank of a Deputy Commissioner of Police or a District Magistrate.] Delegation of powers and duties of Provincial Government.

22. Any police officer may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under this Act. Power to arrest without warrant.

23. (*1*) The Bombay Security Measures Ordinance, 1946, and the Criminal Law (Bombay Amendment) Ordinance, 1947, are repealed. Repeal of Bom. Ordinances II of 1946 and I of 1947.

(*2*) Every notification issued or appointment, rule or order made under the Bombay Security Measures Ordinance, 1946, and the Criminal Law (Bombay Amendment) Ordinance, 1947, which was in force immediately before the commencement of this Act shall, so far as it could validly have been issued or made under this Act, continue in force and be deemed to have been issued or made under this Act until it is superseded or modified by a competent authority under this Act and any proceeding under the said Ordinances pending on the date of the coming into operation of this Act may be continued as if it is a proceeding under this Act.

24. No suit, prosecution or other legal proceedings whatsoever shall lie against any person for or on account of or in respect of any sentence passed or any act ordered or done by him in good faith whether in exercise of any jurisdiction or power conferred or purporting to have been conferred on him by or under this Act or in carrying out any sentence passed by a Special Judge in exercise of any jurisdiction as aforesaid. Indemnity.

25. The Provincial Government may by notification in the *Official Gazette* and subject to the condition of previous publication make rules to carry out the purposes of this Act. Rules.

VII. Amendments to Acts.

IV of 1871. **26.** For the proviso to sub-section (*1*) of section 9 of the Coroners' Act, 1871, in its application to the Province of Bombay, the following shall be substituted, namely :— Amendment of section 9 of Act IV of 1871.

Bom. VI of 1947. "Provided that such inquest shall not be held in the case of death arising out of an offence triable under the Bombay Public Security Measures Act, 1947."

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[1] These words were substituted for the words "not lower in rank than a Deputy Commissioner of Police in Greater Bombay, or the District Magistrate, or Additional District Magistrate elsewhere" by Bom. 30 of 1948, s. 6.

Insertion of new section 16A in Act XIV of 1908.

27. After section 16 of the Indian Criminal Law Amendment Act, 1908, in its application to the Province of Bombay the following new section shall be inserted, namely :— XIV of 1908.

Additional power to declare association unlawful.

"16A. If the Provincial Government is of opinion that any association is organized or equipped for the purpose of enabling the members of the association to be employed, or is organized or equipped in such manner as to arouse reasonable apprehension that the members of the association may be employed, in usurping the functions of His Majesty's forces or of any police force or of any force constituted under any law for the time being in force or for the use or display of physical force in furtherance of the common object of the association, the Provincial Government may by notification in the *Official Gazette* declare such association to be unlawful."

Amendment of section 42 of Bom. IV of 1890 and of section 23 of Bom. IV of 1902.

28. (*1*) In sub-section (*1*) of section 42 of the Bombay District Police Act, 1890, after the word "weapons" the words "or of corrosive substances or of explosives" shall be inserted. Bom. IV of 1890.

(*2*) In clause (*a*) of sub-section (*2*) of section 23 of the City of Bombay Police Act, 1902, after paragraph (*ii*) the following shall be inserted, namely :— Bom. IV of 1902.

" or

(*iii*) any corrosive substance ; or

(*iv*) any explosive ;".

THE MOTOR VEHICLES (BOMBAY AMENDMENT) ACT, 1947.

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PREAMBLE.

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1. Short title.
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3. Amendment of section 43 of Act IV of 1939.
4. Amendment of section 44 of Act IV of 1939.
5. Insertion of new section 44A in Act IV of 1939.
6. Amendment of section 45 of Act IV of 1939.
7. Amendment of section 47 of Act IV of 1939.
8. Amendment of sections 48, 54, 55, 56, 57, 58 and 64 of Act IV of 1939.
9. Insertion of new section 48A in Act IV of 1939.
10. Amendment of section 58 of Act IV of 1939.
11. Insertion of new section 58A in Act IV of 1939.
12. Amendment of section 62 of Act IV of 1939.
13. Amendment of section 68 of Act IV of 1939.

BOMBAY ACT No. VII OF 1947.[1]

[THE MOTOR VEHICLES (BOMBAY AMENDMENT) ACT, 1947.]

[*23rd March 1947.*]

An Act to amend the Motor Vehicles Act, 1939, in its application to the Province of Bombay.

IV of 1939. WHEREAS it is expedient to amend the Motor Vehicles Act, 1939, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Motor Vehicles (Bombay Amendment) Act, 1947. Short title.

IV of 1939. 2. In section 42 of the Motor Vehicles Act, 1939 (hereinafter called the said Act), for clause (*a*) of sub-section (*3*), the following shall be substituted, namely :— Amendment of section 42 of Act IV of 1939.

"(*a*) to any transport vehicle owned by or on behalf of the Central Government or a Provincial Government other than a vehicle used for a commercial purpose or for the purposes of a commercial department;"

3. To sub-section (*1*) of section 43 of the said Act the following shall be added, namely :— Amendment of section 43 of Act IV of 1939.

"

; or

(*iii*) notwithstanding anything contained in section 58 or section 60 cancel any permit granted under the Act in respect of a transport vehicle or class of such permits either generally or in any area specified in the notification :

Provided that no such notification shall be issued before the expiry of a period of three months from the date of a notification declaring its intention to do so :

Provided further that when any such permit has been cancelled the permit holder shall be entitled to such compensation as may be provided in the rules ; or

(*iv*) declare that it will engage in the business of road transport service either generally or in any area specified in the notification."

4. In sub-section (*2*) of section 44 of the said Act, the following provisos shall be added, namely :— Amendment of section 44 of Act IV of 1939.

"Provided that if the Provincial Government so thinks fit the Provincial Transport Authority or a Regional Transport Authority may consist of a single official :

Provided further that nothing in this sub-section shall apply to an official merely by reason of the fact that the Provincial Government employing him has any financial interest in a transport undertaking."

5. After section 44 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 44A in Act IV of 1939.

"44A. Notwithstanding anything contained in this Act, the Provincial Government may by notification in the *Official Gazette* authorise the Provincial Transport Officer or a Regional Transport Officer to exercise and discharge in lieu of any other authority prescribed by or under this Act such powers and functions as may from time to time be specified in the notification." Transport Officers to exercise notified powers.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 97; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

Amendment of section 45 of Act IV of 1939.

6. To section 45 of the said Act, the following proviso shall be added, namely :—

"Provided that the Provincial Government may by notification in the *Official Gazette* direct that applications for such class of permits in such region as may be specified in the notification shall be made to the Provincial Transport Authority."

Amendment of section 47 of Act IV of 1939.

7. In section 47 of the said Act, in sub-sections (*1*) and (*2*) after the words "Regional Transport Authority" the words "or the Provincial Transport Authority" shall be inserted.

Amendment of sections 48, 54, 55, 56, 58 and 64 of Act IV of 1939.

8. In sections 48, 54 (*d*), 55, 56, sub-sections (*2*), (*3*), (*4*), (*5*) and (*7*) of section 57 and sections 58 (*1*) and 64 (*a*) of the said Act, after the words "Regional Transport Authority" wherever they occur the words "or the Provincial Transport Authority" shall be inserted.

Insertion of new section 48A in Act IV of 1939.

9. After section 48 of the said Act, the following new section shall be inserted, namely :—

Issue of stage carriage permit to Government or local authorities.

"48A. Notwithstanding anything contained in sections 47 and 48, a Regional Transport Authority or the Provincial Transport Authority shall issue the stage carriage permit applied for by or on behalf of the Provincial Government or a local authority with the concurrence of the Provincial Government."

Amendment of section 58 of Act IV of 1939.

10. To section 58 of the said Act the following shall be added, namely :—

"(*3*) Notwithstanding anything contained in sub-section (*1*) above, the Provincial Government may order a Regional Transport Authority or the Provincial Transport Authority to limit the period for which any permit or class of permits is issued to any period less than the minimum prescribed in the Act."

Insertion of new section 58A in Act IV of 1939.

11. After section 58 of the said Act, the following section shall be inserted, namely :—

Grant of permit to local authority.

"58A. Notwithstanding anything hereinbefore contained, the Provincial Government may by order direct any Regional Transport Authority or the Provincial Transport Authority to grant a stage carriage permit to the Provincial Government or any local authority specified in the order."

Amendment of section 62 of Act IV of 1939.

12. In section 62 of the said Act,—

(*i*) after the words "Regional Transport Authority" the words "or the Provincial Transport Authority" shall be inserted;

(*ii*) after clause (*c*) the following shall be inserted, namely :—

"

, or

(*d*) pending decision on an application for the grant or renewal of a permit,"

Amendment of section 68 of Act IV of 1939.

13. After clause (*h*) of sub-section (*2*) of section 68 of the said Act, the following new clause shall be inserted, namely :—

"(*hh*) the compensation to be paid to a permit holder for cancellation of a permit in respect of a transport vehicle;"

THE BOMBAY HARIJAN (REMOVAL OF SOCIAL DISABILITIES) ACT, 1946.

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7. Penalties.
8. Enhanced penalty in certain cases after previous conviction
9. Offences under Act cognizable.
10. [*Repealed.*]
11. Rules.

BOMBAY ACT No. X OF 1947.[1]

[THE BOMBAY HARIJAN (REMOVAL OF SOCIAL DISABILITIES) ACT, 1946.]

[*12th April 1947.*]

Repealed in part by Bom. 77 of 1948.

An Act to provide for the removal of the social disabilities of Harijans.

WHEREAS it is expedient to provide for the removal of the social disabilities of Harijans; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Harijan (Removal of Social Disabilities) Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Harijan" means a member of a caste, race or tribe deemed to be a scheduled caste under the Government of India (Scheduled Castes) Order, 1936;

(*b*) "Hindu" includes a Buddhist, Sikh, Jain, a follower of Arya or Bramha Samaj or a convert to Hinduism;

Bom. I of 1904.

(*c*) "local authority" means a local authority as defined in clause (26) of section 3 of the Bombay General Clauses Act, 1904, other than a cantonment authority or the trustees for the port of Bombay;

(*d*) "place of public amusement" means any place, enclosure, building, tent, booth or other erection, whether permanent or temporary, where music, singing, dancing or any diversion or game, or the means of carrying on the same, is provided and to which the public are admitted either on payment of money, or with the intention that money may be collected from those admitted and includes a race-course, circus, theatre, music hall, billiard-room, bagatelle-room, gymnasium or fencing school;

(*e*) "place of public entertainment" means any place, whether enclosed or open, to which the public are admitted, and where any kind of food or drink is supplied for consumption on the premises for the profit or gain of any person owning or having an interest in or managing such place; and includes a refreshment-room, eating-house, coffee-house, boarding-house, lodging-house and hotel;

(*f*) "shop" means any premises where goods are sold either by retail or wholesale or both and includes a laundry, a hair cutting saloon or such other place where services are rendered to customers.

Rights of Harijans.

3. Notwithstanding anything contained in any instrument or any law, custom or usage to the contrary, no Harijan shall merely on the ground that he is a Harijan—

(*a*) be ineligible for office under any authority constituted under any law; or

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 218; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. XI.

(*b*) be prevented from—

(*i*) having access to or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing place, burial or cremation ground, any sanitary convenience, any road or pathway which the members of all other castes and classes of Hindus have a right to use or have access to ;

(*ii*) having access to or using any public conveyance licensed by the Provincial Government or any local authority to ply for hire ;

(*iii*) having access to or using any building or place used for charitable or public purposes maintained wholly or partially out of the revenues of the Province or the funds of a local authority ;

(*iv*) having access to a place of public amusement or a place of public entertainment ;

(*v*) having access to a shop to which the members of all other caste and classes of Hindus are ordinarily admitted ;

(*vi*) having access to or using any place set apart or maintained for the use of Hindus generally but not for the use of any particular section or class thereof ;

(*vii*) enjoying any benefit under a charitable trust created for the benefit of Hindus generally but not for the benefit of any particular section or class thereof.

Discrimination against Harijans prohibited.

4. No person in charge of any of the places referred to in sub-clauses (*i*), (*iii*), (*iv*), (*v*) and (*vi*) or any conveyance referred to in sub-clause (*ii*) of clause (*b*) of section 3 shall impose any restriction on a Harijan or act in a manner as the result in discrimination against him merely on the ground that he is a Harijan.

Courts not to recognise any custom or usage imposing disability on Harijans.

5. No court shall in adjudicating any matter or executing any order recognise any custom or usage imposing any civil disability on any Harijan merely on the ground that he is a Harijan.

Local authorities not to recognise any custom or usage imposing disability on Harijans.

6. No local authority shall in carrying out the functions and duties entrusted to it under any law recognise any custom or usage referred to in section 5.

Penalties.

7. Whoever—

(*a*) prevents any person, by reason of his being a Harijan, from having access to or using any of the places referred to in sub-clauses (*i*), (*iii*), (*iv*), (*v*) and (*vi*), or any conveyance referred to in sub-clause (*ii*), of clause (*b*) of section 3 or from enjoying any benefit under a charitable trust referred to in sub-clause (*vii*) of clause (*b*) of the said section or abets the prevention thereof; or

(*b*) contravenes the provisions of section 4 or abets the contravention thereof, shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to Rs. 200 or with both.

Enhanced penalty in certain cases after previous conviction.

8. If any person who has been convicted of any offence punishable under this Act is again guilty of the same offence he shall be punished on the second conviction with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500 or with both and if he is again so guilty shall be punished on the third or any subsequent conviction with imprisonment for a term which may extend to one year and shall also be liable to fine which may extend to Rs. 1,000.

Offences under Act cognizable.

V of 1898. 9. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence punishable under this Act shall be cognizable by the police.

10. [*Savings.*] *Rep. by Bom. 77 of 1948, s. 5.*

Rules.

11. The Provincial Government may make rules for the purpose of carrying out the provisions of this Act.

THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946.

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SCHEDULES I TO III.

BOMBAY ACT No. XI OF 1947.[1]

[THE BOMBAY INDUSTRIAL RELATIONS ACT, 1946.]

[*15th April 1947.*]

Amended by Bom. 43 of 1948.
" " " 74 of 1948.

An Act to regulate the relations of employers and employees, to make provision for settlement of industrial disputes and to provide for certain other purposes.

WHEREAS it is expedient to provide for the regulation of the relations of employers and employees in certain matters, to consolidate and amend the law relating to the settlement of industrial disputes and to provide for certain other purposes; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title.

1. This Act may be called the Bombay Industrial Relations Act, 1946.

Extent commencement and application.

2. (*1*) This Act extends to the whole of the Province of Bombay.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* specify.

Bom. XXV of 1938.

(*3*) In the areas in which the Bombay Industrial Disputes Act, 1938, was in force immediately before the commencement of this Act, this Act shall apply to the industries to which the said Act applied.

(*4*) The Provincial Government may by notification in the *Official Gazette* apply all or any of the provisions of this Act to all or any other industries, whether generally or in any local area, as may be specified in such notification.

Definition.

3. In this Act unless there is anything repugnant in the subject or context—

(*1*) "approved list" means the list of approved unions maintained by the Registrar under section 12;

(*2*) "approved union" means a union on the approved list;

(*3*) "arbitration proceeding" means—

(*i*) any proceeding under this Act before an arbitrator,

(*ii*) any proceeding before a Labour Court, [2][a Wage Board] or the Industrial Court in arbitration;

(*4*) "arbitrator" means an arbitrator to whom a dispute is referred for arbitration under the provisions of this Act and includes an umpire;

(*5*) "association of employers" means any combination of employers recognised by the Provincial Government under section 27;

(*6*) "award" means any interim or final determination in an arbitration proceeding of any industrial dispute or of any question relating theerto;

(*7*) "Board" means a Board of Conciliation appointed under section 7;

(*8*) "change" means an alteration in an industrial matter;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, p. 209; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. XI.

[2] These words were inserted by Bom. 74 of 1948, s. 2 (*a*).

[1][(*8A*) 'closure' means the closing of any place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial refusal by an employer to continue to employ persons employed by him, whether such closing, suspension or refusal is or is not in consequence of an industrial dispute ;]

(*9*) "Commissioner of Labour" means an officer appointed by the Provincial Government for the time being to be the Commissioner of Labour; and in respect of any of the powers and duties of the Commissioner of Labour that may be conferred and imposed on any person, includes such person ;

(*10*) "conciliation proceeding" means any proceeding held by a Conciliator or a Board under this Act ;

(*11*) "Conciliator" means any Conciliator appointed under this Act and includes the Chief Conciliator or a Special Conciliator ;

(*12*) "Court of Enquiry" means a Court constituted under section 100 ;

(*13*) "employee" means any person employed to do any skilled or unskilled manual or clerical work for hire or reward in any industry, and includes—

(*a*) a person employed by a contractor to do any work for him in the execution of a contract with an employer within the meaning of sub-clause (*e*) of clause (*14*) ;

(*b*) a person who has been dismissed or discharged from employment on account of any dispute relating to a change in respect of which a notice is given or an application made under section 42 whether before or alter his dismissal or discharge ;

(*14*) "employer" includes—

(*a*) an association or a group of employers ;

(*b*) any agent of an employer ;

(*c*) where an industry is conducted or carried on by a department of the Provincial Government, the authority prescribed in that behalf, and where no such authority has been prescribed, the head of the department ;

(*d*) where an industry is conducted or carried on by or on behalf of a local authority, the chief executive officer of the authority ;

(*e*) where the owner of any undertaking in the course of or for the purpose of conducting the undertaking contracts with any person for the execution by or under the contractor of the whole or any part of any work which is ordinarily part of the undertaking, the owner of the undertaking ;

(*15*) "illegal change" means an illegal change within the meaning of sub-section (*4*) or (*5*) of section 46 ;

(*16*) "Industrial Court" means the Court of Industrial Arbitration constituted under section 10 ;

(*17*) "industrial dispute" means any dispute or difference between an employer and employee or between employers and employees or between employees and employees and which is connected with any industrial matter ;

(*18*) "Industrial matter" means any matter relating to employment, work wages, hours of work, privileges rights or duties of employers or employees, or the mode, terms and conditions of employment, and includes—

(*a*) all matters pertaining to the relationship between employers and employees, or to the dismissal or non-employment of any person ;

(*b*) all matters pertaining to the demarcation of functions of any employees or classes of employees ;

[1] This clause was inserted by Bom. 74 of 1948, s. 2 (*b*).

(*c*) all matters pertaining to any right or claim under or in respect of or concerning a registered agreement or a submission, settlement or award made under this Act;

(*d*) all questions of what is fair and right in relation to any industrial matter having regard to the interest of the person immediately concerned and of the community as a whole;

(*19*) "industry" means—

(*a*) any business, trade, manufacture or undertaking or calling of employers;

(*b*) any calling, service, employment, handicraft, or industrial occupation or avocation of employees;

and includes—

(*i*) agriculture and agricultural operations;

(*ii*) any branch of an industry or group of industries which the Provincial Government may by notification in the *Official Gazette* declare to be an industry for the purposes of this Act;

(*20*) "Joint Committee" means a Joint Committee constituted under section 48;

(*21*) "Labour Court" means a Labour Court constituted under section 9;

(*22*) "Labour Officer" means an officer appointed to perform the duties of a Labour Officer under this Act; and includes in respect of such powers and duties of the Labour Officer as may be conferred and imposed on him, an Assistant Labour Officer;

(*23*) "local area" means any area notified as a local area for the purposes of this Act;

(*24*) "lock-out" means the closing of a place or part of a place of employment or the total or partial suspension of work by an employer or the total or partial, refusal by an employer to continue to employ persons employed by him, where such closing, suspension or refusal occurs in consequence of an industrial dispute and is intended for the purpose of—

(*a*) compelling any of the employees directly affected by such closing, suspension or refusal or any other employees of his, or

(*b*) aiding any other employer in compelling persons employed by him, to accept any term or condition of or affecting employment;

(*25*) "member" means a person who is an ordinary member of a union and who has paid a subscription of not less than two annas per month:

Provided that no person shall at any time be deemed to be a member if his subscription is in arrears for a period of three months or more next preceding such time;

(*26*) "occupation" means such section of an undertaking as is recognised under section 11 to be an occupation;

(*27*) "prescribed" means prescribed by rules made under this Act;

(*28*) "Primary Union" means a union for the time being registered as a Primary Union under this Act;

(*29*) "Qualified Union" means a union for the time being registered as a Qualified Union under this Act;

(*30*) "registered union" means a union registered under this Act;

(*31*) "Registrar" means a person for the time being appointed to be the Registrar of Unions under this Act; and includes in respect of such powers and duties of the Registrar as may be conferred and imposed on him, an Assistant Registrar of Unions;

(*32*) "representative of employees" means a representative of employees entitled to act as such under section 30;

(*33*) "Representative Union" means a union for the time being registered as a Representative Union under this Act;

(*34*) "schedule" means a scdedule appended to this Act;

(*35*) "settlement" means a settlement arrived at during the course of a conciliation proceeding;

[1][(*35A*) 'stoppage' means a total or partial cessation of work by the employee in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, whether such cessation or refusal is or is not in consequence of an industrial dispute;]

(*36*) "strike" means a total or partial cessation of work by the employees in an industry acting in combination or a concerted refusal or a refusal under a common understanding of employees to continue to work or to accept work, where such cessation or refusal is in consequence of an industrial dispute;

(*37*) "undertaking" means such concern in any industry as is recognised by the Registrar under section 11;

(*38*) "union" means a Trade Union of employees which is registered under the Indian Trade Unions Act, 1926; XVI of 1926.

[2][(*38A*) 'Wage Board' means a Wage Board constituted under section 86A;]

(*39*) "wages" means remuneration of all kinds capable of being expressed in terms of money and payable to an employee in respect of his employment or work done in such employment and includes—

(*i*) any bonus, allowances (including dearness allowance), reward or additional remuneration;

(*ii*) the value of any house accommodation, light, water, medical attendance or other amenity or service;

(*iii*) any contribution by the employer to any pension or provident fund;

(*iv*) any travelling allowance or the value of any travelling concession;

(*v*) any sum paid or payable to or on behalf of an employee to defray special expenses entailed on him by the nature of his employment;

(*vi*) any gratuity payable on discharge.

CHAPTER II.

AUTHORITIES TO BE CONSTITUTED OR APPOINTED UNDER THIS ACT.

Commissioner of Labour.

4. (*1*) The Provincial Government shall, by notification in the *Official Gazette*, appoint a person to be the Commissioner of Labour.

(*2*) The Provincial Government may by general or special order notified in the *Official Gazette* confer and impose all or any of the powers and duties of the Commissioner of Labour on any person whether generally or for any local area.

Registrar and Assistant Registrars.

5. (*1*) The Provincial Government shall, by notification in the *Official Gazette*, appoint a person to be the Registrar of Unions for the whole of the Province.

[1] This Clause was inserted by Bom. 74 of 1948, s. 2 (c).
[2] This clause was inserted by Bom. 43 of 1948, s. 2.

(*2*) The Provincial Government may, by similar notification, appoint a person to be the Assistant Registrar of Unions for any local area and may, by general or special order, confer on such person all or any of the powers of the Registrar of Unions under this Act.

Conciliators.

6. (*1*) The Provincial Government shall appoint a person to be the Chief Conciliator. His jurisdiction shall extend throughout the Province.

(*2*) The Provincial Government may, by notification in the *Official Gazette*, appoint any person to be a Conciliator for any industry in a local area specified in the notification.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, appoint any person to be a Special Conciliator for such local area or for such industry for such local area or for such industrial dispute or class of disputes as may be specified in the notification.

Board of Conciliation.

7. (*1*) When an industrial dispute arises the Provincial Government may, by notification in the *Official Gazette*, constitute a Board of Conciliation for promoting the settlement of such dispute.

(*2*) The Board shall consist of a Chairman who shall be an independent person and an even number of members. Every member shall be either an independent person or a person chosen by the Provincial Government from a panel representing the interests of the employers or employees, provided that the number of persons chosen from panels representing employers and the number chosen from panels representing employees shall be equal. Such panels shall be constituted in the manner prescribed.

(*3*) If any vacancy occurs in the office of the Chairman or a member of the Board before the Board has completed its work, such vacancy shall be filled in the manner prescribed and the proceedings shall be continued before the Board as so reconstituted from the stage at which they were when the vacancy occurred.

Explanation.—For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the dispute for the settlement of which the Board is constituted and the industry directly affected by the dispute.

Labour Officers and Assistant Labour Officers.

8. (*1*) The Provincial Government may, by notification in the *Official Gazette*, appoint Labour Officers for any local area or areas.

(*2*) The Provincial Government may, by similar notification, appoint Assistant Labour Officers for any local area or areas, and may by general or special order confer on them all or any of the powers of the Labour Officer under this Act.

Labour Courts.

9. The Provincial Government shall, by notification in the *Official Gazette*, constitute one or more Labour Courts having jurisdiction in such local areas as may be specified in such notification and shall appoint persons having the prescribed qualifications to preside over such Courts :

Provided that no person shall be so appointed unless he possesses the qualifications, other than the qualification of age, laid down under section 255 of the Government of India Act, 1935, for being eligible to enter the subordinate civil judicial service in the Province of Bombay.

26 Geo. 5, Ch. 2.

Industrial Court.

10. (*1*) The Provincial Government shall constitute a Court of Industrial Arbitration.

(*2*) The Industrial Court shall consist of three or more members, one of whom shall be its President.

(*3*) Every member of the Industrial Court shall be a person who is not connected with any industry.

(*4*) Every member of the Industrial Court shall be a person who is or has been a judge of a High Court or is eligible for being appointed a judge of such Court :

Provided that one member may be a person not so eligible, if in the opinion of the Provincial Government he possesses expert knowledge of industrial matters.

CHAPTER III.

REGISTRATION OF UNIONS.

Recognition of undertakings and occupations.

11. The Registrar may, after making such inquiry as he deems fit, recognise for the purposes of this Act—

(*1*) any concern in an industry to be an undertaking ;

(*2*) any section of an undertaking to be an occupation.

Maintenance of registers and approved list.

12. It shall be the duty of the Registrar to maintain in such forms as may be prescribed—

(*a*) registers of unions registered by him under the provisions of this Act, and

(*b*) a list of approved unions.

Application for registration.

13. (*1*) Any union which has for the whole of the period of three months next preceding the date of its so applying under this section a membership of not less than fifteen per cent. of the total number of employees employed in any industry in any local area may apply in the prescribed form to the Registrar for registration as a Representative Union for such industry in such local area.

(*2*) If in any local area no Representative Union has been registered in respect of an industry, a union which has for the whole of the period of three months next preceding the date of its so applying under this section a membership of not less than five per cent. of the total number of employees employed in such industry in the said area may apply in the prescribed form to the Registrar for registration as a Qualified Union for such industry in such local area.

(*3*) If in any local area, neither a Representative Union nor a Qualified Union has been registered in respect of an industry, a union having a membership of not less than fifteen per cent. of the total number of employees employed in any undertaking in such industry in the said area and complying with the conditions specified in section 23 as necessary for its being placed on the approved list may apply in the prescribed form to the Registrar for registration as a Primary Union for such industry in such local area.

Registration of union.

14. On receipt of an application from a union for registration under section 13 and on payment of the fee prescribed, the Registrar shall, if after holding such inquiry as he deems fit he comes to the conclusion that the conditions requisite for registration specified in the said section are satisfied and that the union is not otherwise disqualified for registration, enter the name of the union in the appropriate register maintained under section 12 and issue a certificate of registration in such form as may be prescribed :

Provided—

Firstly, that in any local area there shall not at any time be more than one registered union in respect of the same industry :

Secondly, that in any local area the Registrar shall in respect of an industry register a union fulfilling the conditions necessary for registration as a Representative Union in preference to one not fulfilling the said conditions, and failing such a union a union fulfilling the conditions necessary for registration as a Qualified Union in preference to one not fulfilling such conditions :

Thirdly, that where two or more unions fulfilling the conditions necessary for registration apply for registration in respect of the same industry in any local area, subject to the provisions of the second proviso, the union having the largest membership of employees employed in the industry shall be registered :

Fourthly, that the Registrar shall not register any union if he is satisfied that the application for its registration is not made *bona fide* in the interest of the employees but is made in the interest of the employers to the prejudice of the interest of the employees :

[1][*Fifthly*, that the Registrar shall not register any union if at any time, within six months immediately preceding the date of the application for registration or thereafter the union has instigated, aided or assisted the commencement or continuation of a strike or stoppage which has been held or declared to be illegal :

Sixthly, that the Registrar shall not register any union, if the rules of the union relating to its members contain any provision debarring any employee in the industry concerned from being a member of such union on the ground that he is or is not an employee in any particular undertaking in the said industry.]

15. The Registrar shall cancel the registration of a union— Cancellation of registration.

(*a*) if the Industrial Court directs that the registration of such union shall be cancelled ;

(*b*) if after holding such inquiry, if any, as he deems fit, he is satisfied—

(*i*) that it was registered under mistake, misrepresentation or fraud ; or

(*ii*) that the membership of the union has for a continuous period of three months fallen below the minimum required under section 13 for its registration :

Provided that where a strike or a closure not being an illegal strike or closure under this Act in an industry involving more than a third of the employees in the industry in the area has extended to a period exceeding fourteen days in any calendar month, such month shall be excluded in computing the said period of three months.

Provided further that the registration of a union shall not be cancelled under the provisions of this sub-clause unless its membership at the time of the cancellation is less than such minimum ; or

(*iii*) that the registered union being a Primary Union has after registration failed to observe any of the conditions specified in section 23 ; or

(*iv*) that the registered union is not being conducted *bona fide* in the interests of employees but in the interests of employers to the prejudice of the interest of employees ; or

(*v*) that it has instigated, aided or assisted the commencement or continuation of [2][a strike or a stoppage which has been held or declared to be illegal] ;

(*c*) if its registration under the Indian Trade Unions Act, 1926, is cancelled.

XVI of 1926.

16. (*1*) If at any time any union (hereinafter in this section referred to as "applicant union") makes an application to the Registrar for being registered in place of the union already registered (hereinafter in this section referred to as "registered union") for an industry, in a local area, on the ground that it has a larger membership of employees employed in such industry the Registrar shall call Registration of another union in place of existing registered union.

[1] This portion was added by Bom. 74 of 1948, s. 3.

[2] These words were substituted for the original, *ibid*, s. 4.

upon the registered union by a notice in writing to show cause within one month of the receipt of such notice why the applicant union should not be registered in its place. An application made under this sub-section shall be accompanied by such fee as may be prescribed.

(*2*) The Registrar shall forward to the Labour Officer a copy of the said application and notice.

(*3*) If, on the expiry of the period of notice undersub-section (*1*), after holding such inquiry as he deems fit, the Registrar comes to the conclusion that the applicant union complies with the conditions necessary for registration specified in section 13, and that its membership was during the whole of the period of three months immediately preceding the date of the application under this section larger than the membership of the registered union, he shall subject to the provisions of section 14 register the applicant union in place of the registered union.

(*4*) Every application made under this section shall be published in the prescribed manner not less than 14 days before the expiry of the period of notice under sub-section (*1*).

Application for re-registration.

17. (*1*) Any union the registration of which has been cancelled on the ground that it was registered under a mistake or on the ground specified in sub-clause (*ii*) of clause (*b*) of section 15 may, at any time after three months from the date of such cancellation and on payment of such fees as may be prescribed, apply for re-registration. The provisions of sections 13 and 14 shall apply in respect of such application.

(*2*) A union the registration of which has been cancelled on any other ground shall not, save with the permission of the Provincial Government, be entitled to apply for re-registration.

Liability of union or members not relieved by cancellation.

18. Notwithstanding anything contained in any law for the time being in force, the cancellation of the registration of a union shall not relieve the union or any member thereof from any penalty or liability incurred under this Act prior to such cancellation.

Periodical returns to be submitted to Registrar.

19. Every registered union shall submit to the Registrar on such dates and in such manner as may be prescribed, periodical returns of its membership.

Appeal to Industrial Court from order of Registrar cancelling registration.

20. (*1*) Any party to a proceeding before the Registrar may within 30 days from the date of an order passed by the Registrar under this Chapter, appeal against such order to the Industrial Court:

Provided that the Industrial Court may for sufficient reason admit any appeal made after the expiry of such period.

(*2*) The Industrial Court may admit an appeal under sub-section (*1*) if on a perusal of the memorandum of appeal and the decision appealed against it finds that the decision is contrary to law or otherwise erroneous.

(*3*) The Industrial Court in appeal may confirm, modify or rescind any order passed by the Registrar and may pass such consequential orders as it may deem fit. A copy of the orders passed by the Industrial Court shall be sent to the Registrar.

Publication of order.

21. Every order passed under section 14, 15 or 16 and every order passed in appeal under section 20 shall be published in the prescribed manner.

Registration of union for more than one local area.

22. Subject to the foregoing provisions of this Chapter, a union may in the prescribed manner be registered for an industry for more local areas than one.

CHAPTER IV.

APPROVED UNIONS.

Approved list: maintenance of: conditions for being entered in.

23. (*1*) On an application being made in the prescribed form, by a union for being entered in the approved list, the Registrar may after holding such inquiry as he deems fit enter the union in such list if he is satisfied that the union has made rules, that the provisions of the said rules are being duly observed by the unions, and that the rules provide that—

(*i*) its membership subscription shall be not less than four annas per month;

(*ii*) its executive committee shall meet at intervals of not more than three months;

(*iii*) all resolutions passed, whether by the executive committee or the general body of the union, shall be recorded in a minute book kept for the purpose;

(*iv*) an auditor appointed by Government may audit its accounts at least once in each financial year;

(*v*) every industrial dispute in which a settlement is not reached by conciliation shall be offered to be submitted to arbitration, and that arbitration under Chapter XI shall not be refused by it in any dispute;

(*vi*) no strike shall be sanctioned or resorted to by it unless all the methods provided by or under this Act for the settlement of an industrial dispute have been exhausted and the majority of its members vote by ballot in favour of such strike;

[1]["(*vii*) no stoppage which is illegal under this Act shall be sanctioned or resorted to by it:"]

Provided that the Registrar shall not enter a union in the approved list if he is satisfied that it is not being conducted *bona fide* in the interest of its members, but to their prejudice.

XVI of 1926.

Explanation.—"Member" for the purposes of clause (*vi*) means a member of the union for the purposes of the Indian Trade Unions Act, 1926.

(*2*) The Provincial Government may by notification in the *Official Gazette* direct that in the case of any union or class of unions specified in the notification the membership subscription may, subject to a minimum of two annas per month, be less than four annas.

(*3*) Notwithstanding anything contained in sub-section (*1*) there shall not at any time be more than one approved union in respect of any industry in a local area.

(*4*) Any union complying with the conditions specified in sub-section (*1*) and having a larger membership in an industry in a local area than an approved union for such industry shall on application in that behalf be entered in the approved list in place of such approved union.

Removal from approved list.

24. The Registrar shall remove a union from the approved list if its registration under the Indian Trade Unions Act, 1926, is cancelled, and may also so remove a union if after holding such inquiry if any as he deems fit, he is satisfied that it—

XVI of 1926.

(*i*) was entered in the list under mistake, misrepresentation or fraud, or

(*ii*) has, since being included in the approved list, failed to observe the conditions specified in section 23.

[1] This clause was inserted by Bom. 74 of 1948, s. 5.

Rights of Officers of approved unions.

25. [1][Such officers and members of an approved union as may be authorised by or under] rules made in this behalf by the Provincial Government shall, in such manner and subject to such conditions as may be prescribed, have a right, and shall be permitted by the employer concerned—

(*a*) to collect sums payable by members to the union on the premises where wages are paid to them;

(*b*) to put up or cause to be put up a notice board on the premises of the undertakings in which its members are employed and affix or cause to be affixed notices thereon;

(*c*) for the purpose of the prevention or settlement of an industrial dispute—

(*i*) to hold discussions on the premises of the undertaking with the employees concerned who are the members of the union;

(*ii*) to meet and discuss with an employer or any person appointed by him for the purpose the grievances of its members employed in his undertaking;

(*iii*) to inspect, if necessary, in any undertaking any place where any member of the union is employed.

Legal aid to approved unions at Government expense in important proceedings.

26. (*1*) An approved union entitled to appear—

(*a*) before a Labour Court in a proceeding for determining whether a strike, lock-out, [2][closure, stoppage] or change is illegal, or

(*b*) before the Industrial Court in a proceeding involving in the opinion of the Court an important question of law or fact,

may apply to the Court for the grant of legal aid at the expense of the Provincial Government.

(*2*) A copy of every application made under sub-section (*1*) shall be sent to the Registrar with the least practicable delay.

(*3*) The Court to which an application is made under sub-section (*1*) may fix for the hearing of the application a day of which at least three days' clear notice shall be given to the Registrar.

(*4*) On the day fixed or as soon thereafter as may be convenient, the Court shall examine the witnesses, if any, produced by the union and the Registrar, and may also examine the officers of the union, and shall make a memorandum of the substance of such evidence.

(*5*) The Court may after considering the evidence adduced under sub-section (*4*) either grant or refuse the application.

(*6*) The Provincial Government may in consultation with the Industrial Court prescribe the fees for legal advice to, and appearance on behalf of a union before a Court.

(*7*) For the purpose of this section, legal aid includes advice to the union and the appearance before a Court of a legal practitioner on behalf of the union.

CHAPTER V.

REPRESENTATIVES OF EMPLOYERS AND EMPLOYEES, AND APPEARANCE ON THEIR BEHALF.

Recognition of combination of employers as association of employers.

27. (*1*) The Provincial Government may from time to time by notification in the *Official Gazette*—

(*a*) recognise any combination of employers in an industry, whether incorporated or not as an association of employers for the purposes of this Act, provided that one of the objects of such combination is the regulation of conditions of employment in the industry;

[1] These words were substituted for the original by Bom. 43 of 1948, s. 3.
[2] These words were inserted by Bom. 74 of 1948, s. 6.

(*b*) withdraw any recognition granted under clause (*a*):

Provided that no recognition shall be withdrawn unless an opportunity has been given to such association of employers to be heard.

(*2*) In any proceeding under this Act an association of employers shall be entitled to represent—

(*a*) any employer who is a member of the association;

(*b*) any employer connected with the same industry not being a member of the association, who has intimated in writing to the prescribed authority that he has agreed to be represented by the association in such proceeding;

and any notice or intimation given by or to such association shall be deemed to have been given by or to every employer it is entitled to represent.

(*3*) Where more employers than one are affected or under any of the provisions of this Act deemed to be affected, and no association of employers is under sub-section (*2*) entitled to represent all of them, the representative determined in the prescribed manner shall be entitled to act as their representative.

Election of representatives of employees.

28. (*1*) Where there is no Representative Union in respect of any industry in any local area, the employees in each undertaking in the industry and in each occupation therein may, in the prescribed manner, elect five persons from among themselves to represent them for the purposes of this Act:

Provided that no such persons shall be elected for any occupation the number of employees in which does not exceed ten.

(*2*) The persons, if any, elected under sub-section (*1*) shall function in such manner as may be prescribed.

(*3*) Within [1][two years] from the date on which an election under sub-section (*1*) is held, and within each succeeding [1][two years] thereafter, a fresh election shall be held:

Provided that any person may be re-elected at any such election.

(*4*) The employees may in the prescribed manner recall any or all of the persons elected under sub-section (*1*) or (*3*).

(*5*) Vacancies in the number of the persons elected under sub-section (*1*) or (*3*) shall be filled by election in the prescribed manner.

Act or decision of majority to be deemed to be act or decision of all.

29. Any act or decison of the majority of the persons elected under section 28 by any employees shall be deemed to be the act or decision of all the persons so elected by them.

Representative of employees.

30. The following shall be entitled to set in the order of preference specified as the representative of employees in an industry in any local area—

(*i*) a Representative Union for such industry;

(*ii*) a Qualified or Primary Union of which the majority of employees directly affected by the change concerned are members;

(*iii*) any Qualified or Primary Union in respect of such industry authorised in the prescribed manner in that behalf by the employees concerned;

(*iv*) the Labour Officer if authorised by the employees concerned;

(*v*) the persons elected by the employees in accordance with the provisions of section 28 or where the proviso to sub-section (*1*) thereof applies, the employees themselves;

(*vi*) the Labour Officer:

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[1] These words were substituted for the words "twelve months" by Bom. 74 of 1948, s. 7.

Provided—

Firstly, that the persons entitled to act under clause (*v*) may authorise any Qualified or Primary Union in respect of such industry to act instead of them :

Secondly, that where the Labour Officer is the representative of the employees, he shall not enter into any agreement under section 44 or settlement under section 58 unless the terms of such agreement or settlement, as the case may be, are accepted by them in the prescribed manner :

Thirdly, where in any proceeding the persons entitled to act under clause (*v*) are more than five, the prescribed number elected from amongst them in the prescribed manner shall be entitled to act instead.

Certain unions to continue to act for some time as representatives of employees.

31. Notwithstanding anything contained in this Act, a registered or representative union entitled under the Bombay Industrial Disputes Act, 1938, to act as a representative of employees immediately before the application of this Act to the industry concerned shall continue to be so entitled for a period of six months from the date of its application thereto or until a representative of employees becomes entitled to act as such under section 30, whichever is earlier. Bom. XXV of 1938.

Explanation.—For the purposes of this section the expressions 'registered union' and 'representative union' have the meanings respectively assigned to them in the Bombay Industrial Disputes Act, 1938. Bom. XXV of 1938.

Persons who may appear in proceedings.

32. (*1*) A Conciliator may, if he considers it to be necessary for the proper discharge of his functions, permit any individual, whether an employee or not, to appear in any proceeding before him.

(*2*) The provisions of sub-section (*1*) shall apply so far as may be to a Board, an Arbitrator, a Labour Court and the Industrial Court.

Representation of employees.

33. Notwithstanding anything contained in any other provision of this Act, an employee [1][or a representative union] shall be entitled to appear through any person,

(*a*) in all proceedings before the Industrial Court ;

[2][(*aa*) in all proceedings before a wage board ;

(*b*) in proceedings before a Labour Court for deciding whether a strike, lock-out, [3][closure or stoppage] or change or an order passed by an employer under the standing orders is illegal [4][or for deciding any industrial dispute referred to it under section 72] ;

(*c*) in such other proceedings as the Industrial Court may, on application made in that behalf, permit :

Provided that a legal practitioner shall not be permitted under clause (*c*) to appear in any proceeding under this Act except before a Labour Court or the Industrial Court.

CHAPTER VI.

POWERS AND DUTIES OF LABOUR OFFICER.

Powers and duties of Labour Officer.

34. (*1*) A Labour Officer shall exercise the powers conferred, and perform the duties imposed on him by or under this Act.

[1] These words were inserted by Bom. 43 of 1948 s. 4(*a*).
[2] This Clause was inserted, *ibid*, s. 4(*b*).
[3] These words were inserted by Bom. 74 of 1948, s. 8 (*a*).
[4] This portion was inserted, *ibid*, s. 8 (*b*).

(2) For the purpose of exercising such powers and performing such duties a Labour Officer may, subject to such conditions as may be prescribed, at any time during working hours, and outside working hours after reasonable notice, enter and and inspect—

(a) any place used for the purpose of any industry;

(b) any place used as the office of any union;

(c) any premises provided by an employer for the residence of his employees, and shall be entitled to call for and inspect all relevant documents which he may deem necessary for the due discharge of his duties and powers under this Act.

(3) All particulars contained in or information obtained from any document inspected or called for under sub-section (2) shall, if the person in whose possession the document was so requires, be treated as confidential.

(4) A Labour Officer may, after giving reasonable notice, convene a meeting of employees for any of the purposes of this Act, on the premises where they are employed, and may require the employer to affix a written notice of the meeting at such conspicuous place in such premises as he may order and may also himself affix or cause to be affixed such notice. The notice shall specify the date, time and place of the meeting, the employees or class of employees affected, and the purpose for which the meeting is convened:

Provided that during the continuance of a lock-out which is not illegal, no meeting of employees affected thereby shall be convened on such premises without the employer's consent.

(5) A Labour Officer shall be entitled to appear in any proceeding under this Act.

(6) It shall be the duty of the Labour Officer to—

(a) watch the interests of employees and promote harmonious relations between employers and employees;

(b) investigate the grievances of employees and represent to employers such grievances and make recommendations to them in consultation with the employees concerned for their redress;

(c) report to the Provincial Government the existence of any industrial dispute of which no notice of change has been given, together with the names of the parties thereto:

Provided that the Labour Officer shall not—

(a) appear in any proceeding in which the employees who are parties thereto are represented by a Representative Union,

(b) where there is [1][an approved union] for an industry in a local area, except at the request of the union, act under clause (b) of sub-section (6) in respect of the employees.

CHAPTER VII.

STANDING ORDERS.

Settlement of Standing Orders by Commissioner of Labour.

35. (1) Within six weeks from the date of the application of this Act to an industry every employer therein shall submit for approval to the Commissioner of Labour in the prescribed manner draft standing orders regulating the relations between him and his employees with regard to the industrial matters mentioned in Schedule I:

Provided that where an undertaking in an industry is started after the application of this Act to such industry, the draft standing orders shall be submitted within six months of the starting of the undertaking.

[1] These words were substituted for the words "a Representative Union" by Bom. 43 of 1948, s. 5.

(*2*) On receipt of the draft standing orders the Commissioner of Labour shall, after consulting in the prescribed manner the representative of employees and employers and such other interests concerned in the industry and making such inquiry as he deems fit, settle the said standing orders.

(*3*) The Commissioner of Labour shall forward a copy of the standing orders so settled to the Registrar, who shall within fifteen days of their receipt record them in the register kept for the purpose.

(*4*) Standing orders so settled shall come into operation from the date of their record in the register under sub-section (*3*).

(*5*) Until standing orders in respect of an undertaking come into operation under the provisions of sub-section (*4*), model standing orders, if any, notified in the *Official Gazette* by the Provincial Government in respect of the industry shall apply to such undertaking.

Appeal to Industrial Court.

36. (*1*) Any person aggrieved by any standing orders settled by the Commissioner of Labour under sub-section (*2*) of section 35 may within thirty days from the date of their coming into operation appeal to the Industrial Court:

Provided that the Industrial Court may for sufficient cause, admit any appeal after the expiry of the period of thirty days.

(*2*) On an appeal being filed, the Industrial Court may on the application of any party to such appeal and on such conditions as it may think fit stay the operation of all or any of such standing orders until the appeal is decided.

(*3*) The Industrial Court in appeal may confirm, modify, add to or rescind all or any of such standing orders.

(*4*) The Industrial Court shall fix the date on which all or any of the standing orders settled by it under sub-section (*3*) shall come into operation.

(*5*) A copy of the orders passed by the Industrial Court under sub-section (*3*) shall be sent to the Registrar who shall record them in the register referred to in sub-section (*3*) of section 35.

Review.

37. (*1*) Any person aggrieved by a decision of the Industrial Court under section 36 may within thirty days from the date of the decision apply to the Industrial Court for a review of the said decision.

(*2*) The Industrial Court shall not grant such application unless it is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of the party making the application or could not be produced by him at the time when its decision was made, or that there has been some mistake or error apparent on the face of the record or that there is any other sufficient reason for granting such application.

(*3*) The provisions of sub-sections (*2*), (*3*), (*4*) and (*5*) of section 36 shall, so far as may be, apply to proceedings under sub-section (*1*) in the same manner as they apply to an appeal against standing orders settled by the Commissioner of Labour under sub-section (*2*) of section 35.

No alteration in Standing Orders for one year.

38. (*1*) No alteration shall be made for a period of one year from the date of its coming into operation in any standing order settled under any of the foregoing provisions of this Chapter except by the Industrial Court in appeal or review, where such appeal or review lies.

(2) Any employer or employee may apply to the Commissioner of Labour for a change in—

(a) any standing order settled under sub-section (2) of section 35, which has not been appealed against, or

(b) any standing order settled in appeal under sub-section (3) of section 36, in respect of which no application for review has been made, or

(c) any standing order settled in review under section 37,

after the expiry of one year from the date of such standing order coming into operation.

Alteration in Standing Orders.

39. (1) On receipt of an application under sub-section (2) of section 38 the Commissioner of Labour shall, after giving the other party an opportunity of being heard and after consulting such other interests in the industry as in his opinion are affected, pass such order as he deems fit, and, if the order effects an alteration in any standing order, forward a copy of the standing order as so altered to the Registrar who shall, within fifteen days of its receipt record it in the register referred to in sub-section (3) of section 35. The standing order as so altered shall come into operation from the date of its record in the register.

(2) The provisions of sections 36, 37 and 38 shall, so far as may be, apply to an order passed by the Commissioner of Labour under sub-section (1) in the same manner as they apply to standing orders settled under sub-section (2) of section 35.

Standing Orders to be determinative.

40. (1) Standing orders in respect of an employer and his employees settled under this Chapter and in operation, or where there are no such standing orders, model standing orders, if any, applicable under the provisions of sub-section (5) of section 35 shall be determinative of the relations between the employer and his employees in regard to all industrial matters specified in Schedule I.

(2) Notwithstanding anything contained in sub-section (1) the Provincial Government may refer, or an employee may apply in respect of, any dispute of the nature referred to in clause (a) of paragraph A of section 78, to a Labour Court.

Act XX of 1946 not to apply to certain industries.

XX of 1946. **41.** The provisions of the Industrial Employment (Standing Orders) Act, 1946, shall not apply to any industry to which the provisions of this Chapter are applied.

CHAPTER VIII.

CHANGES.

Notice of change

42. (1) Any employer intending to effect any change in respect of an industrial matter specified in Schedule II shall give notice of such intention in the prescribed form to the representative of employees. He shall send a copy of such notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Register, the Labour Officer and such other person as may be prescribed. He shall also affix a copy of such notice at a conspicuous place on the premises where the employees affected by the change are employed for work and at such other place as may be directed by the Chief Conciliator in any particular case.

(2) An employee desiring a change in respect of an industrial matter not specified in Schedule I or III shall give notice in the prescribed form to the employer through the representative of employees, who shall forward a copy of the notice to the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

(*3*) When no settlement is arrived at in any conciliation proceeding in regard to any industry dispute which has arisen in consequence of a notice relating to any change given under sub-section (*1*) or sub-section (*2*), no fresh notice with regard to the same change or a change similar in all material paticulars shall be given before the expiry of two months from the date of the completion of the proceeding within the meaning of section 63. If, at any time after the expiry of the said period of two months, any employer or employee again desires the same change or a change similar in all material particulars, he shall give fresh notice in the manner provided in sub-section (*1*) or (*2*), as the case may be.

(*4*) Any employee [1][or a representative union] desiring a change in respect of (*i*) any order passed by [2][the] employer under standing orders, or (*ii*) any industrial matter arising out of the application or interpretation of standing orders, or (*iii*) an industrial matter specified in Schedule III, shall make an application to the Labour Court :

Provided that no such application shall lie unless the employee [1][or a representative union] has in the prescribed manner approached [2][the] employer with a request for the change and no agreement has been arrived at in respect of the change within the prescribed period.

Notice of change when to be deemed general notice.

43. [3][(*1*) Where an employer gives notice of a proposed change under sub-section (*1*) of section 42 affecting some of the employees in an industry in a local area, any other employer or an association of employers or the representative of any employees engaged in the industry in the local area may, within seven days from the date of service of such notice, intimate in writing to such employer that other employers, or as the case may be, other employees, engaged in the industry in the area and mentioned in such intimation are affected by the change. The employer or employers concerned shall affix a copy of such intimation at a conspicuous place on every premises where the employees concerned are employed for work.

(*2*) Where an employee gives notice of a proposed change under sub-section (*2*) of section 42 affecting one or some of the employers in an industry in a local area the representative of employees or any employer or an association of employers engaged in the industry in the local area may, within seven days from the date of service of such notice, give a special notice in writing to the employee and his employer, or as the case may be, the representative of employees, that other employees, or as the case may be, other employers, engaged in the industry in the area and mentioned in such special notice, are affected by the change. The employer or employers concerned shall affix a copy of such special notice at a conspicuous place on every premises where the employees concerned are employed for work.]

(*3*) A copy of every intimation under sub-section (*1*) and special notice under sub-section (*2*) shall be sent to the Commissioner of Labour, the Chief Conciliator, the Conciliator for the industry concerned for the local area, the Registrar, the Labour Officer and such other person as may be prescribed.

(*4*) On an intimation being given under sub-section (*1*) or a special notice being given under sub-section (*2*) and the provisions of sub-section (*3*) being complied with, the employees mentioned in the intimation or employers mentioned in the special notice, as the case may be, shall also, for the purposes of this Act, be deemed

[1] These words were inserted by Bom. 43 of 1948, s. 6 (*a*).
[2] This word was substituted for the word "his", *ibid.*, s. 6 (*b*).
[3] Sub-sections (*1*) and (*2*) were substituted for the original by Bom. 74 of 1948, s. 9.

to be affected by such change, and to have been given notice under sub-section (*1*) or (*2*), as the case may be, of section 42.

(*5*) Where an employer or an employee gives a notice of a proposed change under sub-section (*1*) or sub-section (*2*), as the case may be, of section 42, and such change, in the opinion of the Provincial Government affects the majority of employers or employees engaged in an industry or occupation in the local area, the Provincial Government may by notification in the *Official Gazette* declare that the whole of such industry or occupation, as the case may be, is affected by such change and thereupon it shall be deemed to be so affected.

44. (*1*) If within seven days from the date of service of a notice under section 42 or an intimation or special notice under section 43 or the date of publication of a notification under sub-section (*5*) of section 43, or within such further period as may be mutually fixed by the employers affected and the representative of the employees affected an agreement is arrived at in regard to the proposed change, a memorandum of such agreement signed by the employer or employers as well as by the representative of employees shall be forwarded in the prescribed manner to the Chief Conciliator, the Registrar and the Labour Officer: Agreement regarding change.

Provided that where the employees deemed to be affected under sub-section (*4*) of section 43 are in the opinion of the Provincial Government the majority of the employees in the industry, or the whole industry is deemed to be affected under sub-section (*5*) thereof, the Labour Officer shall not enter into any agreement under this sub-section.

(*2*) On receipt of such memorandum of agreement the Registrar shall enter the same in a register maintained for the purpose unless on inquiry he is satisfied that the agreement was in contravention of any of the provisions of this Act or was the result of mistake, misrepresentation, fraud, undue influence, coercion or threat.

(*3*) An appeal shall lie to the Industrial Court against an order of the Registrar refusing to register an agreement under sub-section (*2*). The provisions of section 20 shall apply to such appeal.

45. An agreement registered under section 44 shall come into operation on the date specified therein or if no date is so specified on its being recorded by the Registrar. Agreement to come into force.

46. (*1*) No employer shall make any change in any standing order settled under Chapter VII without following the procedure prescribed therefor in this Act. Illegal change.

(*2*) No employer shall make any change in any industrial matter mentioned in Schedule II—

(*i*) within the period provided for in sub-section (*1*) of section 44 unless an agreement is arrived at;

(*ii*) where no agreement is arrived at and registered before a settlement relating to the dispute comes into operation;

(*iii*) where no settlement is arrived at, after two months from the date of the completion of the proceedings before the Conciliator;

(*iv*) in cases where there is a registered submission or in which the dispute has been referred to arbitration, before the date on which the award comes into operation;

[1][(*v*) in cases where such matter or a dispute regarding such matter has been referred to a Wage Board for decision, before the date on which the decision comes into operation.]

(*3*) No employer shall make any such change in contravention of the terms of a settlement, [2][effective award, registered agreement or effective order or decision of a Wage Board].

(*4*) Any change made in contravention of the provisions of sub-section (*1*), (*2*) or (*3*) shall be illegal.

(*5*) Failure to carry out the terms of any settlement, award [3][registered agreement or effective order or decision of a wage Board] shall be deemed to be an illegal change.

Employer to make change etc. within certain time.

47. An employer required under the terms of any [4][effective decision or order of a Wage Board,] Labour Court or the Industrial Court to carry out a change or withdraw an illegal change, shall comply with such requirement within such time as the [5][wage Board or] Court giving or making the decision or order prescribes and where no time is prescribed by it within forty-eight hours of the giving or making of the decision or order [6][or as the case may be, of the declaration referred to in section 76A or 86F.]

CHAPTER IX.

JOINT COMMITTEES.

Constitution of Joint Committees.

48. (*1*) A Joint Committee may be constituted for an undertaking or occupation with the consent of the employer and the registered union for the industry for the local area : [7][and shall be constituted irrespective of such consent, if the Provincial Government on an application made to it in this behalf by the registered union so directs].

Provided that no Joint Committee shall be so constituted in respect of an undertaking or occupation where there is no representative union, unless not less than fifteen per cent. of the employees are members of a registered union.

(*2*) On application made in this behalf by the employer or the Union to the Registrar, a Joint Committee shall be entered in a list of Joint Committees maintained by him, and thereupon all the provisions of this Act shall apply to the Joint Committee.

[8][(*3*) Every Joint Committee shall stand dissolved whenever the condition specified in the proviso to sub-section (*1*) ceases to be complied with ; and a Joint Committee constituted with the consent of the employer and the registered union shall also stand dissolved on the expiry of the period of a three months' notice in that behalf being given by the employer to the union, or by the union to the employer.]

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[1] This clause was inserted by Bom. 43 of 1948, s. 7 (*i*).
[2] These words were substituted for the original, *ibid.*, s. 7 (*ii*).
[3] These words were substituted for the original, *ibid.*, s. 7 (*iii*).
[4] These words were substituted for the original, *ibid.*, s. 8 (*i*).
[5] These words were inserted, *ibid.*, s. 8 (*ii*).
[6] This portion was added by Bom. 43 of 1948, s. 8 (*iii*).
[7] This portion was inserted, *ibid.*, s. 9 (*i*).
[8] This sub-section was substituted for the original, *ibid.*, s. 9 (*ii*).

49. (*1*) A Joint Committee shall consist of such number of members as may be prescribed; half the number shall in the prescribed manner be nominated by the union [1][from among employees in the undertaking or occupation concerned], and the other half appointed by the employer concerned. Composition of Joint Committee.

[2][Where the Joint Committee is to be constituted in pursuance of a direction of the Provincial Government on an application made by the registred union, the union and the employer shall nominate and appoint the members within such period as the Provincial Government may by order specify. A copy of such order shall, as soon as may be, be given to the union and the employer in the manner prescribed.]

(*2*) A chairman shall be appointed in accordance with rules made in this behalf. He shall perform his duties in the prescribed manner.

50. (*1*) A representative of the registered union may attend any meeting of the Joint Committee, to advise the members representing the employees. Proceedings of Joint Committee.

(*2*) The proceedings of the Joint Committee shall be conducted in the manner prescribed.

(*3*) The proceedings shall be recorded in a minute book.

51. (*1*) Any member of a Joint Committee may move a proposal regarding any change other than a change in any standing order or regarding any other matter affecting the relations between the employer and the employees in the undertaking or occupation, as the case may be, for which the Committee is constituted: Proposal for change.

Provided that no such proposal shall be moved for a change in respect of any industrial matter if such change could not for the time being be made under this Act.

(*2*) The decision of the Joint Committee regarding every change proposed under the provisions of sub-section (*1*) together with all necessary particulars regarding such change shall within forty-eight hours be communicated to the registered union and the employer, as well as the Labour Officer and the Commissioner of Labour.

52. (*1*) Where an agreement is arrived at between the employer and the union regarding any change proposed in the Joint Committee under sub-section (*1*) of section 51, a memorandum of such agreement signed by them shall be forwarded by the employer in the prescribed manner to the Registrar and the Labour Officer and all the provisions of this Act shall apply to such agreement as they would apply in respect of an agreement under sub-section (*1*) of section 44. Special intimation for change and special application to Labour Court.

(*2*) If within seven days from the receipt of a decision under sub-section (*2*) of section 51, the employer or the union sends an intimation (hereinafter called special intimation) in the prescribed form to the Conciliator for the industry for the local area stating that the change proposed in the Joint Committee, being a change in respect of a matter not specified in Schedule I or III, or such change with specified alterations, should be made, and that no agreement in respect thereof has been arrived at between the union and the employer, the Conciliator shall forthwith enter the case as an industrial dispute in the register kept under section 55, and the provisions of this Act shall apply to it as if a statement were submitted under section 54.

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[1] These words were inserted by Bom. 74 of 1948, s. 10.

[2] This portion was inserted by Bom. 43 of 1948, s. 10.

(*3*) If within seven days from the receipt of a decision under sub-section (*2*) of section 51 regarding a matter specified in clause (*a*) of paragraph A of sub-section (*1*) of section 78 the employer or union sends a special application in respect of such matter to the Labour Court having jurisdiction, the Labour Court shall forthwith proceed to decide the dispute under the provisions of Chapter XII.

(*4*) A copy of every special intimation sent under sub-section (*2*) shall be forwarded to the Chief Conciliator, the Conciliator for the industry for the local area concerned, the Registrar, the Labour Officer and such other person as may be prescribed.

Decision of respective representatives binding on union and employer.

53. (*1*) The union may authorise such proportion (hereinafter called the authorised proportion), not being less than three-fourths of the members representing the employees on the Joint Committee, to accept or reject on its behalf any proposal or class of proposals moved in the Committee.

(*2*) The employer may authorise a proportion of the members representing him on the Committee to accept or reject on his behalf any proposal or class of proposals moved in the Committee.

(*3*) For a period of two months after a decision of the Committee, no notice of change under section 42, or special intimation or application under section 52 shall be given or made—

(*a*) where the union acts under sub-section (*1*), by the employees concerned or the union, contrary to the decision of the authorised proportion accepting a proposal in respect of which it is authorised ; and

(*b*) where the employer acts under sub-section (*2*), by the employer, contrary to the decision of the authorised proportion of his representatives.

(*4*) The union whenever it acts under sub-section (*1*), and the employer whenever he acts under sub-section (*2*), shall communicate the fact to the Chief Conciliator, the Conciliator for the industry for the local area concerned and the Registrar.

CHAPTER X.

CONCILIATION PROCEEDINGS.

Report of dispute to be sent to Registrar, Chief Conciliator and Conciliator.

54. (*1*) If any proposed change in respect of which notice is given under section 42, or an intimation or special notice is given under section 43 is objected to by the employer or the employee, as the case may be, the party who gave such notice, intimation or special notice shall, if he still desires that the change should be effected, forward to the Registrar, the Chief Conciliator and the Conciliator for the local area for the industry concerned a full statement of the case in the prescribed form within fifteen days from the date of service of such notice, intimation or special notice on the other party or within one week of the expiry of the period fixed by both the parties under sub-section (*1*) of section 44 for arriving at an agreement.

Explanation.—For the purposes of this sub-section a change shall be deemed to be objected to by the employer or employee, as the case may be, if within seven days from the date of service of such notice, intimation or special notice or within the period fixed by both the parties under sub-section (*1*) of section 44 for arriving at an agreement a memorandum of agreement has not been forwarded to the Registar under the said sub-section.

(2) When a notification is issued under sub-section (5) of section 43 in respect of such change, any employer or employee in the industry may within seven days from the date of publication of such notification forward such statement to the said officers.

55. On receipt of the statement of the case under section 54 the Conciliator shall, except in a case in which by reason of the provisions of section 64 a conciliation proceeding cannot be commenced, forthwith enter the industrial dispute in the register kept for the purpose and thereupon the conciliation proceeding shall be deemed to have commenced from the date of such receipt. **Commencement of conciliation proceeding.**

56. (1) The Conciliator shall hold the conciliation proceeding in the prescribed manner. **Conciliation proceeding.**

(2) It shall be the duty of the Conciliator to endeavor to bring about the statement of the industrial dispute and for this purpose the Conciliator shall enquire into the dispute and all matters affecting the merits thereof and may do all such thing as he thinks fit for the purpose of inducing the parties to come to a fair and amicable settlement of the dispute and may adjourn the conciliation proceeding for any period sufficient in his opinion to allow the parties to arrive at a settlement or for any other reason.

57. (1) It shall be lawful for the Chief Conciliator to intervene or to direct any Conciliator to intervene at any stage in any conciliation proceedings held by another Conciliator, and thereafter the Chief Conciliator or the Conciliator so directed shall hold the conciliation proceeding with or without the assistance of the Conciliator. **Power of Chief Conciliator to intervene.**

(2) The Chief Conciliator may from time to time issue such directions as he deems fit to any Conciliator at any stage of a conciliation proceedings.

58. (1) If a settlement of an industrial dispute is arrived at in a conciliation proceeding, a memorandum of such settlement shall be drawn up in the prescribed form by the Conciliator and signed by the employer and the representatives of employees. The Conciliator shall send a report of the proceeding along with a copy of the memorandum of settlement to the Registrar and the Chief Conciliator. The Registrar shall record such settlement in the register of agreements and shall then publish it in the prescribed manner. The change, if any, agreed to by such settlement shall come into operation from the date agreed upon in such settlement where no such date is agreed upon from the date on which it is recorded in the register. **Settlement and report.**

(2) If no such settlement is arrived at, the Conciliator shall, as soon as possible after the close of the proceeding before him, send a full report to the Chief Conciliator stating the steps taken by him for ascertaining the facts and circumstances relating to the dispute and the reasons on account of which, in his opinion, settlement could not be arrived at :

Provided that where such Conciliator is the Chief Conciliator such report shall forwarded by him to the Provincial Government.

(3) The Chief Conciliator shall forward the report submitted to him under sub-section (2) to the Provincial Government with such remarks as he deems fit.

(4) The Provincial Government shall publish the report of the Conciliator or Chief Conciliator forwarded to it under the proviso to sub-section (2) or under sub-section (3) except in cases in which the dispute is referred to a Board, or the parties to the dispute enter into a submission in respect of it.

[1][(*4A*) Notwithstanding anything contained in this section where an industrial dispute is settled in regard to some of the industrial matters included therein and has not been settled in regard to others and the parties agree in writing that the settlement shall take place in regard to the industrial matters so settled, the settlement of the said industrial matter shall be registered and a report of the industrial matters not settled shall be sent in accordance with the provisions of this section.]

(*5*) Before the close of the proceeding before him the Conciliator shall ascertain from the parties whether they are willing to submit the dispute to arbitration.

(*6*) (*a*) Notwithstanding anything contained in the foregoing sub-sections, if at any stage of a conciliation proceeding the parties agree in writing to submit the dispute to arbitration, the agreement shall be deemed to be a submission within the meaning of section 66.

(*b*) Where the agreement provides for arbitration either by a Labour Court or by the Industrial Court, the Conciliator shall forthwith refer the dispute to the Labour Court or the Industrial Court, as the case may be.

Reference to Board.

59. (*1*) The Provincial Government may at any time, and where either prior to the commencement of a proceeding before the Conciliator or after his failure to bring about a settlement, the parties agree, shall refer the dispute to a Board and thereupon conciliation proceedings before the Board shall be deemed to have commenced from the date of such reference.

(*2*) On such reference being made, the Board shall give notice in the prescribed manner to the parties to the dispute to appear before it at such time and place as may be specified in the notice. A copy of such notice shall be sent to the Labour Officer.

(*3*) On the date specified in the notice or on such other date as may be fixed by the Board, the Board shall hold the conciliation proceeding. It shall be the duty of the Board to endeavour to bring about a settlement of the industrial dispute and the provisions of sections 55, 56 and 58 shall, so far as may be, apply to the proceeding before the Court.

Procedure and powers of Conciliator and Board.

60. (*1*) A Conciliator or a Board, as the case may be, shall subject to the provisions of this Act, follow in a conciliation proceeding such procedure as may be prescribed.

(*2*) The proceedings before a Conciliator shall be held *in camera* and any proceedings before a Board may be held in public or *in camera* as the Board may decide.

(*3*) If a party to an industrial dispute or a witness or any other person giving any information or producing any document in a conciliation proceeding makes a request in writing to the Conciliator or the Board, as the case may be, that such information or the contents of such document be treated as confidential, the Conciliator or the Board shall direct that such information or document be treated as confidential :

Provided that the Conciliator or Board may permit the information or the contents of the document to be disclosed to the other party.

(*4*) Save as provided in sub-section (*3*) a Conciliator or any member of a Board or any person present at or concerned in the conciliation proceeding shall not disclose any information or the contents of any document in respect of which a request has been made under sub-section (*3*) without the consent in writing of the party making the request under the said sub-section.

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[1] This sub-section was inserted by Bom. 74 of 1948, s. 11.

(*5*) Nothing in this section shall apply to the disclosure of any information or the contents of any document for the purpose of a prosecution under this Act or under any other law for the time being in force.

61. A Conciliator or a Board may refer any question of law arising before him or it in any conciliation proceeding, to the Industrial Court for decision. Any order passed by the Conciliator or the Board in such proceeding shall be in accordance with such decision. **Reference to Industrial Court by Conciliator or Board.**

62. (*1*) The Provincial Government shall by general or special order notified in the *Official Gazette* fix a time limit for the completion of each stage of the conciliation proceedings provided for under this Chapter: **Time limit for stages of conciliation proceeding.**

Provided that the total period fixed for the completion of all stages of a conciliation proceeding shall not exceed one month from the date on which the dispute is entered by the Conciliator in the register under section 55 or is referred to a Board under section 59:

Provided further that the Provincial Government may extend the said period of one month by a further period of a fortnight at a time but not exceeding in any case two months in the aggregate.

(*2*) Notwithstanding anything contained in sub-section (*1*), the parties to any industrial dispute may in any case agree to extend the period fixed for the completion of any stage of a conciliation proceeding by any further period and such further period shall be excluded in computing the period of time limit referred to in the said sub-section.

63. A conciliation proceeding shall be deemed to have been completed— **Completion of conciliation proceeding.**

(*i*) when a memorandum of the settlement arrived at in such proceeding is signed by the parties under sub-section (*1*) of section 58, or

(*ii*) when the parties agree in writing to submit the dispute to arbitration, or

(*iii*) if no settlement is arrived at, when the report of the Conciliator or the Board is published by the Provincial Government, or

(*iv*) when the time limit fixed for the completion of such proceeding under section 62 has expired.

[1][*Explanation.*—When an industrial dispute is settled in regard to some of the industrial matters included therein, the conciliation proceeding in regard to those matters only shall be deemed to have been completed within the meaning of this section.]

64. No conciliation proceeding in respect of an industrial dispute shall— **Conciliation proceedings not to be commenced or continued in certain cases.**

(*a*) be commenced if—

(*i*) the representative of employees directly affected by the dispute is a registered union which is a party to a submission relating to such dispute or a dispute relating to an industrial matter similar to that regarding which the dispute has arisen;

(*ii*) it has been referred to arbitration under the provisions of section 72 [2][73 or 73A];

(*iii*) by reason of a direction issued under sub-section (*2*) of section 114 the employers and employees concerned are in respect of the dispute bound by a registered agreement, settlement, submission or award;

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[1] This Explanation was added by Bom. 74 of 1948, s. 12.

[2] These figures, word and letter were substituted for the word and figures "or 73" by Bom. 43 of 1948, s. 11.

(*b*) be continued after the date on which—

(*i*) a submission relating to such dispute is entered into by the employer and employees concerned under section 58 or 66;

(*ii*) the dispute is referred to arbitration under section 72 or 73; or

(*iii*) the direction referred to in sub-clause (*iii*) of clause (*a*) is issued.

Conciliation proceeding discontinued deemed to be completed.

65. A conciliation proceeding which is discontinued under clause (*b*) of section 64 shall be deemed to have been completed on the date referred to in the said clause, and the provisions of section 58 with regard to the submission, forwarding and publication of reports shall apply to such conciliation proceeding.

CHAPTER XI.

ARBITRATION.

Submission.

66. (*1*) Any employer and a Representative Union or any other registered union which is a representative of employees may, by a written agreement, agree to submit any present or future industrial dispute or class of such disputes to the arbitration of any person whether such arbitrator is named in such agreement or not. Such agreement shall be called a submission.

(*2*) Such submission may provide that the dispute shall be referred to the arbitration of a Labour Court or the Industrial Court:

[1][Provided that no such submission shall provide for reference of any such dispute to the arbitration of the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.]

(*3*) A copy of every such submission shall be sent to the Registrar who shall register it in the register to be maintained for the purpose and shall publish it in such manner as may be prescribed.

Submission when revocable.

67. Every submission shall in the absence of any provision to the contrary contained therein be irrevocable:

Provided that a submission to refer future disputes to arbitration may at any time be revoked by any of the parties to such submission by giving the other party six months' notice in writing:

Provided further that before the expiry of the said period of six months the parties may agree to continue the submission for such further period as may be agreed upon between them.

Proceedings in arbitration.

68. The proceedings in arbitration under this Chapter shall be in accordance with the provisions of the Arbitration Act, 1940, in so far as they are applicable, and the powers which are exercisable by a Civil Court under the said provisions shall be exercisable by a Labour Court and the Industrial Court. X of 1940.

Special case to be stated to industrial Court.

69. The arbitrator may refer any question of law arising before him in any proceeding under this Act to the Industrial Court for its decision. Any award made by the arbitrator shall be in accordance with such decision.

Award by arbitrator.

70. The arbitrator shall, after hearing the parties concerned, make an award which shall be signed by him.

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[1] This proviso was added by Bom. 43 of 1948, s. 12.

71. Notwithstanding anything contained in this Chapter, if no provision has been made in any submission for the appointment of an arbitrator or where by reason of any circumstance no arbitrator is appointed, such dispute shall be referred to the arbitration of a Labour Court or the Industrial Court, as the Provincial Government may determine.

Dispute to be referred to Labour Court or Industrial Court if no arbitrator appointed.

72. (*1*) Notwithstanding anything hereinbefore contained the Provincial Government may, at any time on the report of the Labour Officer or on its own motion, refer any industrial dispute between, employees and employees to the arbitration of a Labour Court or the Industrial Court.

(*2*) The provisions of this Chapter with such modifications as may be prescribed shall apply to such arbitration.

(*3*) The employers of such employees shall in the prescribed manner be made parties to such arbitration.

Disputes between employees and employees may be referred by Provincial Government to arbitration of Labour Court or Industrial Court.

73. Notwithstanding anything contained in this Act, the Provincial Government may, at any time, refer an industrial dispute to the arbitration of the Industrial Court, if on a report made by the Labour Officer or otherwise it is satisfied that—

Provincial Government may refer Industrial dispute to Industrial Court for arbitration.

(*1*) by reason of the continuance of the dispute—

(*a*) a serious outbreak of disorder or a breach of the public peace is likely to occur; or

(*b*) serious or prolonged hardship to a large section of the community is likely to be caused; or

(*c*) the industry concerned is likely to be seriously affected or the prospects and scope for employment therein curtailed; or

(*2*) the dispute is not likely to be settled by other means; or

(*3*) it is necessary in the public interest to do so.

[1][73A. Notwithstanding anything contained in this Act, a registered union which is a representative of employees and the rules of which provide for the matter specified in clause (vi) of sub-section (*1*) of section 23, may at any time refer any industrial dispute for arbitration to the Industrial Court:

Reference to arbitration by unions.

Provided that no such dispute shall be referred to the Industrial Court where under any provision of this Act it is required to be referred to the Labour Court for its decision.]

74. (*1*) The arbitrator, Labour Court or Industrial Court, as the case may be, shall forward copies of the award made by him or it to the parties, the Commissioner of Labour and the Registrar.

Notice of award to parties.

(*2*) On receipt of such award, the Registrar shall enter it in the register kept for the purpose and shall publish it in such manner as may be prescribed.

75. The award shall come into operation on the date specified in the award or where no such date is specified therein on the date on which it is published under section 74.

Date on which award shall come into operation.

76. The arbitration proceeding shall be deemed to have been completed when the award is published under section 74.

Completion of arbitration proceeding.

[1] This section was inserted by Bom. 43 of 1948, s. 13.

Procedure to give effect to awards affecting Provincial Government.

[1][76A. (*1*) Notwithstanding anything contained in sections 74 to 76 (both inclusive) where the award affects an industry conducted or carried on by a department of the Provincial Government, the award shall not be effective except in accordance with the procedure set out in sub-sections (*2*) and (*3*).

(*2*) The arbitrator, Labour Court or Industrial Court shall, as soon as practicable on the conclusion of its proceedings, submit its award to the Provincial Government, and the Provincial Government shall, by order in writing, declare the decision to be binding:

Provided that where in the opinion of the Provincial Government it would be inexpedient on public grounds to give effect to the whole or any part of the award, the Provincial Government shall, on the first available opportunity, lay thedecision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the award; and the Legislative Assembly may by its resolution confirm, modify or reject the award.

(*3*) On the passing of a resolution under the proviso to sub-section (*2*), unless the award is rejected thereby, the Provincial Government shall, by order in writing, declare the award as confirmed or modified by the resolution, as the case may be, to be binding.]

CHAPTER XII.

LABOUR COURTS.

Territorial jurisdiction.

77. The territorial jurisdiction of Labour Courts shall extend to the local areas for which they are constituted.

Power of Labou Court.

78. (*1*) A Labour Court shall have power to—

A. decide—

(*a*) disputes regarding—

(*i*) the propriety or legality of an order passed by an employer under the standing orders;

(*ii*) the application and interpretation of standing orders;

(*iii*) any change made by an employer or desired by an employee in respect of an industrial matter specified in Schedule III and matters arising out of such change;

(*b*) industrial disputes—

(*i*) referred to it under section 71 or 72;

(*ii*) in respect of which it is appointed as the arbitrator by a submission;

(*c*) whether a strike, lock-out, [2][closure, stoppage] or any change is illegal under this Act;

B. try offences punishable under this Act and where the payment of compensation on conviction for an offence is provided for, determine the compensation and order its payment;

[1] This section was inserted, by Bom. 43 of 1948 s. 14.
[2] These words were inserted by Bom. 74 of 1948, s. 13.

C. require any employer to—

(*a*) withdraw any change which is held by it to be illegal, or

(*b*) carry out any change provided such change is a matter in issue in any proceeding before it under this Act.

(*2*) Every offence punishable under this Act shall be tried by the Labour Court within the local limits of whose jurisdiction it was committed.

Explanation.—A dispute falling under clause (*a*) of paragraph A of sub-section (*1*) shall be deemed to have arisen if within the period prescribed under the proviso to sub-section (*4*) of section 42, no agreement is arrived at in respect of an order, matter or change referred to in the said proviso.

Commencement of proceedings.

79. (*1*) Proceedings before a Labour Court in respect of disputes falling under clause (*a*) of paragraph A of sub-section (*1*) of section 78 shall be commenced on an appplication made by any of the parties to the dispute, a special application under sub-section (*3*) of section 52 or an application by the Labour Officer [1][or a representative union] uand proceedings in respect of a matter falling under clause (*c*) of the said paragraph A on an application made by any employer or employee directly affected or the Labour Officer [1][or a representative Union.]

(*2*) Every application under sub-section (*1*) shall be made in the prescribed form and manner.

(*3*) An application in respect of a dispute falling under clause (*a*) of paragraph A of sub-section (*1*) of section 78 shall be made—

(*a*) if it is a dispute falling under sub-clause (*i*) or (*ii*) of the said clause, within three months of the arising of the dispute;

(*b*) if it is a dispute falling under sub-clause (*iii*) of the said clause, within three months of the employee concerned having last approached the employer under the proviso to sub-section (*4*) of section42.

(*4*) An application in respect of a matter falling under clause (*c*) of paragraph A of sub-section (*1*) of section 78 shall be made within three months of the commencement of the strike [2][, lock-out, closure or stoppage] or of the making of the illegal change, as the case may be.

Summoning of parties and procedure at inquiry.

80. (*1*) On receipt of an application under section 79 the Labour Court shall summon all parties affected by the dispute to appear, and shall hold an inquiry.

(*2*) In an inquiry under sub-section (*1*) the Judge presiding over the Labour Court shall himself, as such inquiry proceeds, record a minute of the proceedings in his own hand, embracing the material averments made by the parties affected and the material parts of the evidence. The decision shall be signed by him and shall set forth the grounds on which it is based.

Reference to Industrial Court by Labour Court.

81. A Labour Court may refer any question of law arising in any proceeding before it to the Industrial Court for decision. Any order passed by the Labour Court in such proceeding shall be in accordance with such decision.

Cognizance of offences.

82. No Labour Court shall take cognizance of any offence except on a complaint by the person affected of facts constituting such offence or on a report in writing by the Labour Officer.

Powers and procedure of Labour Courts in trials.

83. In respect of offences punishable under this Act, a Labour Court shall have all the powers under the Code of Criminal Procedure, 1898, of a Presidency Magistrate in Greater Bombay and a Magistrate of the First Class elsewhere, and in the trial of every such offence shall follow the procedure laid down in Chapter XXII of

V of 1898.

[1] These words were inserted by Bom. 43 of 1948, s. 15.

[2] These words were substituted for the words "or lock-out" by Bom. 74 of 1948, s. 14.

the said Code for a summary trial in which an appeal lies; and the rest of the provisions of the said Code shall, so far as may be, apply to such trial.

Appeals.

84. (*1*) Notwithstanding anything contained in section 83 an appeal shall lie to the Industrial Court—

(*a*) against a decision of a Labour Court in respect of a matter falling under clause (*a*) or (*c*) of paragraph A of sub-section (*1*) of section 78, except to the extent to which it determines whether a strike, [1][,lock-out, closure or stoppage was illegal or not, or a decision of such Court under paragraph C of sub-section (*1*) of the said section;

(*b*) against a conviction by a Labour Court by the person convicted;

(*c*) against an acquittal by a Labour Court in its special jurisdiction, by the Provincial Government;

(*d*) for enhancement of a sentence awarded by a Labour Court in its special jurisdiction, by the Provincial Government.

(*2*) Every appeal shall be made within thirty days from the date of the decision, conviction, acquittal or sentence, as the case may be:

Provided that the Industrial Court may for sufficient reasons allow an appeal after the expiry of the said period.

Industrial Court to exercise superintendence over Labour Courts.

85. The Industrial Court shall have superintendence over all Labour Courts and may—

(*a*) call for returns;

(*b*) make and issue general rules and prescribe forms for regulating the practice and procedure of such Courts in matters not expressly provided for by this Act and, in particular, for securing the expeditious disposal of cases;

(*c*) prescribe forms in which books, entries and accounts shall be kept by the officers of any such Courts;

(*d*) settle a table of fees payable for process issued by a Labour Court or the Industrial Court.

Decision, etc., of Labour Court not to be called in question.

86. Except as otherwise provided by this Act, no decision, award or order of a Labour Court shall be called in question in any proceeding in any civil or criminal Court.

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[2][CHAPTER XIIA.

WAGE BOARDS.

Wage Boards.

86A. The Provincial Government may, by notification in the *Official Gazette*, constitute for one or more industries a Wage Board for the Province.

Constitution of Wage Board.

86B. The Wage Board shall consist of an equal number of persons nominated by the Provincial Government to represent employers and employees and such number of independent persons as the Provincial Government nominates. The Chairman shall be appointed by the Provincial Government.

Explanation.—For the purposes of this section a person shall be deemed to be an independent person if he is unconnected with the industrial matter which may be referred to it under section 86C and the industry directly affected by the industrial matter.

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[1] These words were substituted for the words "or look-out" by Bom. 74 of 1948, s. 15.

[2] Chapters XIIA and XIIB were inserted by Bom. 43 of 1948, s. 16.

86C. (*1*) Notwithstanding anything contained in any other provision of this Act, the Provincial Government may, by an order notified in the *Official Gazette*, refer to a Wage Board for decision any industrial matter or industrial dispute regarding items numbered 1, 2, 4, 9 and 10 in Schedule II, and such other industrial matters or disputes as may be prescribed. Reference to Wage Boards.

(*2*) The order of reference under sub-section (*1*) shall specify which employers and employees (including representative of employees if any, and association of employers if any) shall be parties to the proceedings before the Wage Board.

86D. Notwithstanding anything contained in any other provision of this Act, where an industrial matter or industrial dispute is referred for decision to a Wage Board under section 86C, no proceedings regarding the same shall be commenced before a Conciliator, Board, Labour Court or the Industrial Court or a Court of Enquiry; and any such proceedings already commenced shall be forthwith stayed on the making of the reference. Proceedings not to be commenced or continued before Conciliator, Board, etc.

86E. A Wage Board shall, in respect of an industrial matter or industrial dispute referred to it for decision, subject to any rules of procedure which may be prescribed, follow the same procedure as the Industrial Court in respect of arbitration proceedings before it. Procedure before Wage Boards.

In particular the rules of procedure which may be prescribed in this behalf may provide for the formation of committees for local areas from amongst members of the Wage Board with co-option of such other persons from the local areas as the Wage Board would for the purpose of any reference think fit to appoint to the committees and the exercise by each such committee of the jurisdiction and powers vested in the Wage Board in respect of such industrial matters or industrial disputes as are referred by the Wage Board to the Committee.

[1][**86EE.** Save as provided in section 86F, a decision of the Wage Board shall come into operation on the date specified in the decision and where no such date is specified therein on the date on which it is published in the prescribed manner]. Coming into operation of decision of Wage Board.

86F. (*1*) Where the decision of a Wage Board affects an industry conducted or carried on by a department of the Provincial Government, the decision shall not be effective except in accordance with the procedure set out in sub-sections (*2*) and (*3*). Procedure to give effect to decision of Wage Board affecting Provincial Government.

(*2*) The Wage Board shall, as soon as practicable on the conclusion of its proceedings, submit its decision to the Provincial Government, and the Provincial Government shall by order in writing declare the decision to be binding:

Provided that where in the opinion of the Provincial Government it would be inexpedient on public grounds to give effect to the whole or any part of the decision, the Provincial Government shall on the first available opportunity lay the decision together with the statement of its reasons for not making a declaration as aforesaid before the Legislative Assembly of the Province, and shall, as soon as may be, cause to be moved therein a resolution for the consideration of the decision; and the Legislative Assembly may by its resolution confirm, modify or reject the decision.

[1] This section was inserted by Bom. 74 of 1948, s. 16.

(*3*) On the passing of a resolution under the proviso to sub-section (*2*), unless the decision is rejected thereby, the Provincial Government shall, by order in writing, declare the decision as confirmed or modified by the resolution, as the case may be, to be binding.

[1][(*4*) A decision declared to be binding under sub-section (*2*) or (*3*) shall come into operation on such date as may be specified in the order of declaration made by the Provincial Government.]

Appeals.

86G. (*1*) An appeal shall lie to the Industrial Court against an order or decision of a Wage Board (including reviewed order or decision), save in cases referred to in section 86F.

(*2*) Such appeal shall be made within six weeks from the date of the order or decision.

Parties on whom order or decision of Wage Board is binding.

86H. Subject to the provisions of sections 86F and 86G, an order or decision of a Wage Board shall be binding on—

(*a*) all parties to any proceeding before it who appeared or were represented therein ;

(*b*) all parties who were summoned to appear as parties to the proceeding, whether they appeared or not ;

(*c*) all the employers and employees in the concern or occupation or industry in the local area according as the order of reference under sub-section (*1*) of section 86C directs irrespective of whether they were such employers or employees at the time of the making or giving of such order or decision, or whether they became such afterwards.

Review of order or decision by Wage Board.

86I. (*1*) An employer or an employee or an association or a group of employers or a registered union or body of employees may apply to a Wage Board for review of an order or decision of the Wage Board and the Wage Board may for any sufficient reason and upon hearing all the parties review the order or decision :

Provided that no such application shall lie until a period of one year has elapsed from the date of the making or giving of the order or decision or the last review thereof, as the case may be :

Provided further that no such application by an employer or an association or a group of employers shall lie unless the employer, association or group, as the case may be, employs not less than fifteen per cent. of the employees whom the order or decision binds :

Provided also that no such application by an employee or a body of employees shall lie unless the employee or body of employees represents not less than fifteen per cent. of the employees whom the order or decision binds.

(*2*) Where the Provincial Government makes an application in this behalf, the Wage Board may at any time review its order or decision for any sufficient reason and upon hearing all the parties.

Superintendence by Industrial Court.

86J. The Industrial Court shall have superintendence over all Wage Boards and may—

(*a*) call for returns from such Boards ;

(*b*) make and issue general rules, and lay down forms for regulating the practice and procedure of such Boards in matters not expressly provided

[1] This sub-section was added by Bom. 74 of 1948, s. 17.

for by or under this Act, and in particular, for securing expeditious disposal of cases;

(*c*) lay down the forms in which books, entries and accounts shall be kept by officers of Wage Boards;

(*d*) settle fees for processes issued by Wage Boards.

86K. (*1*) Save as otherwise provided by this Act, no order or decision of a Wage Board shall be called in question in any proceeding in any civil or criminal court. Order or decision of Wage Boards not to be called in question.

(*2*) The appellate order or decision of the Industrial Court under section 86G shall have the same force as the original order or decision of the Wage Board which it replaces except that there shall be no further appeal against it.

[1][**86KK.** The Provincial Government may, on the recommendation of the Industrial Court, by an order notified in the *Official Gazette*, direct that any industrial matter, or industrial dispute of the nature mentioned in section 86C which has been referred to the Industrial Court under section 72 or 73, and is pending before it at any time shall be transferred to a Wage Board for disposal or for further disposal from the stage reached before the Industrial Court and thereupon all the provisions of this Act shall apply to that dispute as if it were referred to the Wage Board for decision under section 86C.] Transfer of certain disputes to Wage Board.

CHAPTER XIIB.

Provincial Wage Board.

86L. (*1*) The Provincial Government may by notification in the *Official Gazette*, constitute for all the industries together to which this Act applies a Provincial Wage Board for the Province. Provincial Wage Board.

(*2*) In relation to the Provincial Wage Board the provisions of sections 33, 46, 47, 86B to 86K (both inclusive), 87, 90, 97, 98, 115, 118, 119, 119A and 123 shall be read as if the reference therein to a Wage Board were reference to the Provincial Wage Board.

CHAPTER XIII.

Court of Industrial Arbitration.

87. It shall be the duty of the Industrial Court— Duties of industrial Court.

(*a*) (*i*) to decide appeals under section 20 or 44 from orders passed by the Registrar;

(*ii*) to decide appeals from the decision of the Commissioner of Labour under section 36 or 39 and revision applications under section 37 regarding standing orders;

(*iii*) to decide disputes referred to it under sub-section (*6*) of section 58;

(*iv*) to decide all matters which may be referred to it by a Conciliator or a Board under section 61 or by an arbitrator under section 69;

(*v*) to decide industrial disputes referred to it in accordance with submissions registered under section 66 which provide for such reference to the Industrial Court;

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[1] This section was inserted by Bom. 74 of 1948, s. 18.

(*vi*) to decide industrial disputes referred to it under section 71, 72, [1][73 or 73A ;]

(*vii*) to decide matters referred to it under section 90 ;

(*viii*) to decide questions relating to the interpretation of this Act or rules made thereunder and standing orders referred to it under section 91 ;

(*ix*) to decide references made to it under section 99 ;

[2][(*ixa*) to modify an award under section 116-A ;]

(*x*) to decide such other matters as may be referred to it under this Act or the rules made thereunder ;

(*b*) to decide appeals made under section 84 from a decision of a Labour Court ;

[3][(*c*) to decide appeals made under section 86G from an order or decision of a Wage Board.]

Powers of Industrial Court.

88. (*1*) The Industrial Court in appeal may confirm, modify, add to or rescind any decision or order appealed against and may pass such orders therein as it may deem fit.

(*2*) In respect of offences punishable under this Act, the Industrial Court shall have all the powers of the High Court of Judicature at Bombay under the Code of Criminal Procedure, 1898. V of 1898.

(*3*) A copy of the orders passed by the Industrial Court shall be sent to the Labour Court.

Cancellation of registration of union.

89. If in any proceeding the Industrial Court finds that any union was registered by reason of a mistake, misrepresentation or fraud, or that a registered union has contravened any of the provisions of this Act, the Industrial Court may direct that the registration of such union shall be cancelled.

Reference on point of law.

90. [4][(*1*) A Wage Board may refer to the Industrial Court any point of law arising in any proceedings before it under this Act. Any order or decision made or given by the Wage Board in such proceedings shall be in accordance with the decision of the Industrial Court.]

[5](*2*) A civil or criminal Court may refer any matter or any issue in any suit, criminal prosecution or other legal proceeding before it relating to an industrial dispute to the Industrial Court for its decision. Any order passed by such Court in such suit, prosecution or legal proceeding shall be in accordance with such decision.

[5](*3*) The Provincial Government may refer to the Industrial Court any point of law arising in any proceedings held under this Act. The Industrial Court shall not decide any such reference save in open Court and with the concurrence of a majority of the members of the Court present at the hearing of the reference.

Reference regarding interpretation of Act and Rules.

91. The Commissioner of Labour may refer any question relating to the interpretation of this Act or the rules made under this Act to the Industrial Court for its decision.

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[1] These figures, word and letter were substituted for the word and figures "or 73" by Bom. 74 of 1948, s. 19 (*a*).

[2] This sub-clause was inserted, *ibid.*, s. 19 (*b*).

[3] This clause was inserted by Bom. 43 of 1948, s. 17.

[4] This sub-section was inserted, *ibid.*, s. 18 (*1*).

[5] The original sub-sections (*1*) and (*2*) were re-numbered as (*2*) and (*3*), respectively, *ibid.*, s. 18 (*2*).

92. (*1*) The Industrial Court shall make regulations consistent with the provisions of this Act and the rules made thereunder regulating its procedure. Procedure before Industrial Court.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for the formation of Benches consisting of one or more of its members and the exercise by each such Bench of the jurisdiction and powers vested in it :

Provided that no Bench shall consist only of a member who has not been, and at the time of his appointment was not eligible for appointment as, a Judge of a High Court.

(*3*) Every regulaton made under sub-section (*1*) or (*2*) shall be published in the *Official Gazette.*

(*4*) Every proceeding before the Industrial Court shall be deemed to be a judicial proceeding within the meaning of sections 192, 193 and 228 of the Indian Penal Code. XLV of 1860.

(*5*) The Industrial Court shall have power to direct by whom the whole or any part of the costs of any proceeding before it shall be paid :

Provided that no such costs shall be directed to be paid for the services of any legal adviser engaged by any party.

93. An order made by the Industrial Court regarding the costs of a proceeding may be produced before the Court of the Civil Judge within the local limits of whose jurisdiction any person directed by such order to pay any sum of money has a place of residence or business or where such place is within the local limits of the ordinary civil jurisdiction of the High Court before the Court of Small Causes of Bombay, and such Court shall execute such order in the same manner and by the same procedure as if it were a decree for the payment of money made by itself in a suit. Execution of order as to costs.

94. An order, decision or award of the Industrial Court shall be binding on— Parties on whom order of Industrial Court binding.

(*a*) all parties to the industrial dispute who appeared or were represented before it ;

(*b*) all parties who were summoned to appear as parties to the dispute whether they appeared or not, unless the Industrial Court is of opinion that they were improperly made parties ;

(*c*) in the case of an employer who is a party to the proceeding before such Court in respect of the undertaking to which the dispute relates, his successors, heirs or assigns in respect of the undertaking to which the dispute relates ; and

(*d*) in the case of a registered union which is a party to the proceeding before such Court, all persons represented by the union at the date of the award, as well as thereafter.

95. [2][(*1*) An employer or an association or a group of employers or a registered union may at any time apply to the Industrial Court for review of a decision or award of the Industrial Court and the Industrial Court may, for any sufficient reason and upon hearing the parties, review the decision or award.] [1][Order of Industrial Court to be final except on review.

[3](*2*) No order, decision or award of the Industrial Court shall be called in question in any civil or criminal Court.

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[1] This marginal note was substituted for the original by Bom. 43 of 1948, s. 19.
[2] This sub-section was inserted, *ibid.*
[3] The original section 95 was re-numbered as sub-section (*2*) of that section, *ibid.*

Law declared by Industrial Court to be binding.

[1][95A. The determination of any question of law in any order, decision, award or declaration passed or made by the Full Bench of the Industrial Court, constituted under the regulations made under section 92 shall be recognised as binding and shall be followed in all proceedings under this Act.]

Officer to appear in proceeding before Industrial Court.

96. The Provincial Government may direct any officer to appear in any proceeding before the Industrial Court by giving notice to such Court and on such notice being given such officer shall be entitled to appear in such proceeding.

CHAPTER XIV.

ILLEGAL STRIKES AND LOCK-OUTS.

Illegal strikes.

97. (*1*) A strike shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to an industrial matter specified in Schedule III or regulated by any standing order for the time being in force;

(*b*) without giving notice in accordance with the provisions of section 42;

(*c*) only for the reason that the employer has not carried out the provisions of any standing order or has made an illegal change;

(*d*) in cases where notice of the change is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area;

(*e*) in cases where conciliation proceedings in regard to the industrial dispute to which the strike relates have commenced, before the completion of such proceedings;

(*f*) in cases where a special intimation has been sent under sub-section (*2*) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given;

(*g*) in cases where a submission relating to such dispute or such type of disputes is registered under section 66, before such submission is lawfully revoked;

(*h*) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (*6*) of section 58 or under section 71, or of the Industrial Court under section 72 or 73, before the date on which the arbitration proceedings are completed, or the date on which the award of the Labour or Industrial Court, as the case may be, comes into operation, whichever is later;

(*i*) in contravention of the terms of a registered agreement, or a settlement or [2][effective award.]

[3][(*j*) where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation;

(*k*) in contravention of the terms of an effective decision of a Wage Board.]

(*2*) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a strike relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months after the completion of such proceeding.

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[1] This section was inserted by Bom. 74 of 1948, s. 20.

[2] These words were substituted for the word "award" by Bom. 43 of 1948, s. 20.

[3] These clauses were inserted, *ibid*.

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), if fourteen clear days' notice of a strike not falling under clause (*a*), (*g*), (*h*) or (*i*) of sub-section (*1*) was given to the employer and the Labour Officer, and the strike was not commenced either before the expiry of the period of notice or after six weeks from the date of its expiry, the employees who resume work within forty-eight hours of a Labour Court or the Industrial Court declaring such strike to be illegal shall incur no penalty under this Act in respect of such strike :

Provided that nothing in sub-section (*3*) shall apply to any strike which has within the period of notice been declared under section 99 to be illegal.

Stoppage of work by employees in certain circumstances illegal.

[1][**97A.** A stoppage shall be illegal, if it is commenced or continued,—

(*a*) with the object of compelling the Provincial Government or any public servant to take or abstain from taking any particular course of action in regard to an industrial matter, where the Provincial Government is not an employer in the industry concerned, or

(*b*) if such stoppage is in support of, or in sympathy with, a strike which is illegal under this Act or the Industrial Disputes Act, 1947, or any other law for the time being in force, whether or not in the same industry, occupation or undertaking.]

XIV of 1947.

Illegal lock-outs.

98. (*1*) A lock-out shall be illegal if it is commenced or continued—

(*a*) in cases where it relates to any industrial matter specified in Schedule III or regulated by any standing order for the time being in force ;

(*b*) without giving notice in accordance with the provisions of section 42 ;

(*c*) in cases where notice of the change is given in accordance with the provisions of section 42 and where no agreement in regard to such change is arrived at, before the statement of the case referred to in section 54 is received by the Conciliator for the industry concerned for the local area ;

(*d*) in cases where conciliation proceedings in respect of an industrial dispute to which a lock-out relates have commenced, before the completion of such proceedings ;

(*e*) in cases where a special intimation has been sent under sub-section (*2*) of section 52 to the Conciliator, before the receipt of the intimation by the person to whom it is to be given ;

(*f*) in cases where a submission relating to such dispute or such type of disputes is registered under section 66, before such submission is lawfully revoked ;

(*g*) in cases where an industrial dispute has been referred to the arbitration of a Labour Court or the Industrial Court under sub-section (*6*) of section 58 or under section 71, or of the Industrial Court under section 72 or 73, before the date on which the arbitration proceeding is completed or the date on which the award of the Industrial Court comes into operation, whichever is later ;

(*h*) in contravention of the terms of a registered agreement, or a settlement or [2][effective award.]

[3][(*i*) where an industrial matter or industrial dispute is referred to a Wage Board for decision, before the date on which the decision comes into operation ;

(*j*) in contravention of the terms of an effective decision of a Wage Board.]

(*2*) In cases where a conciliation proceeding in regard to any industrial dispute has been completed, a lock-out relating to such dispute shall be illegal if it is commenced at any time after the expiry of two months from the completion of such proceeding.

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[1] This section was inserted by Bom. 74 of 1948, s. 21.
[2] These words were substituted for the word "award" by Bom. 43 of 1948, s. 21.
[3] These clauses were inserted, *ibid.*

(*3*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), if fourteen clear days' notice of a lock-out not falling under clause (*a*), (*f*), (*g*) or (*h*) of sub-section (*1*) was given to the employees and the Labour Officer, and the lock-out was not commenced either before the expiry of the period of notice or after six weeks from the date of its expiry and the employer discontinues the lock-out within forty-eight hours of a Labour Court or the Industrial Court declaring such lock-out to be illegal, the employer shall incur no penalty under this Act in respect of such lock-out :

Provided that nothing in this sub-section shall apply to any lock-out which has within the period of notice been declared under section 99 to be illegal.

Closure of work by employer in certain circumstances illegal.

[1][**98A.** A closure shall be illegal, if it is commenced or continued with the object of compelling the Provincial Government or any public servant to take or abstain from taking any particular course of action in regard to any industrial matter.]

Reference to Industrial Court for declaration whether strike, [4][,lockout, closure or stoppage] is illegal.

99. (*1*) The Provincial Government may make a reference to the Industrial Court for a declaration whether any proposed [2][strik, lock-out, closure as stoppage will be illegal.]

(*2*) No declaration shall be made under this section save in open Court.

[3][(*3*) The declaration made under sub-section (*1*) shall be recognised or binding and shall be followed in all proceedings under this Act.]

CHAPTER XV.

Court of Enquiry.

Court of Enquiry : constitution, duties and powers of—

100. (*1*) The Provincial Government may constitute one or more Courts of Enquiry consisting of such number of persons as the Provincial Government may think fit.

(*2*) A Court of Enquiry shall inquire into such industrial matters, as may be referred to it by the Provincial Government, including any matter pertaining to conditions of work or relations between employers and employees in any industry, and any aspect of any industrial dispute.

(*3*) Every proceeding before a Court of Enquiry shall be deemed to be a judicial proceeding within the meaning of sections 192, 193, and 228 of the Indian Penal Code. XLV of 1860

CHAPTER XVI.

Penalties.

Employer not to dismiss, reduce or punish an employee.

101. (*1*) No employer shall dismiss, discharge or reduce any employee or punish him in any other manner by reason of the circumstance that the employee—

(*a*) is an officer or member of a registered union or a union which has applied for being registered under this Act ; or

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[1] This section was inserted by Bom. 74 of 1948, s. 22.
[2] These words were substituted for the original, *ibid*, s. 23 (*a*).
[3] This sub-section was added, *ibid*, s. 23 (*b*).
[4] These words were substituted for the words "or lock-out", *ibid*, s. 23 (*c*).

(*b*) is entitled to the benefit of a registered agreement or a settlement, submission or award ; or

(*c*) has appeared or intends to appear as a witness in, or has given any evidence or intends to give evidence in[1] [,or takes part in any capacity in, or in connection with] a proceeding under this Act ; or

(*d*) is an officer or member of an organisation the object of which is to secure better industrial conditions ; or

(*e*) is an officer or member of an organisation which is not declared unlawful ; or

(*f*) is a representative of employees ; or

(*g*) has gone on or joined a strike which has not been held by a Labour Court or the Industrial Court to be illegal under the provisions of this Act.

(*2*) No employer shall prevent any employee from returning to work after a strike, arising out of an industrial dispute relating to any matter specified in Schedule I, II or III, which has not been held by a Labour Court or the Industrial Court to be illegal unless—

(*i*) the employer has offered to refer the issues on which the employee has struck work to arbitration under this Act, and the employee has refused arbitration ; or

(*ii*) the employee not having refused arbitration, has failed to offer to resume work within one month of a declaration by the Provincial Government that the strike has ended.

(*3*) Whoever contravenes the provisions of sub-section (*1*) or (*2*) shall, on conviction, be punishable with fine which may extend to Rs. 5,000.

(*4*) The Court trying an offence under this section may direct that out of the fine recovered, such amount as it deems fit shall be paid to the employee concerned as compensation.

(*5*) In any prosecution under this section the burden of proving that the dismissal, discharge, reduction or punishment of an employee by an employer was not in contravention of the provisions of this section shall lie on the employer.

Penalty for declaring illegal lock-out [5][or illegal closure.]

102. Any employer who has commenced a lock-out [2][or a closure] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine which may extend to Rs. 2,500 and, in the case of the lock-out [3][or the closure, as the case may be,] being continued after the lapse of forty-eight hours after it has been held or declared to be illegal, with an additional fine which may extend to Rs. 5,000 for every day during which such lock-out [4][or closure] continues after such conviction.

Penalty for declaring or commencing illegal strike [8][or illegal stoppage.]

103. Subject to the provisions of sub-section (*3*) of section 97, any employee who has gone on strike [6][or stoppage] or who joins a strike [7][or a stoppage] which a Labour Court holds or the Industrial Court has declared to be illegal shall, on conviction, be punishable with fine, which may extend to Rs. 10 and, in the case of his continuing on strike [9][or on stoppage, as the case may be,] after the lapse of forty-eight hours after it is held or declared to be illegal, with an additional fine

[1] These words were inserted by Bom. 74 of 1948, s. 24.
[2] These words were inserted, *ibid.*, s. 25 (*a*).
[3] These words were inserted, *ibid.*, s. 25 (*b*).
[4] These words were inserted, *ibid.*, s. 25 (*c*).
[5] These words were inserted, *ibid.*, s. 25 (*d*).
[6] These words were inserted, *ibid.*, s. 26 (*a*).
[7] These words were inserted, *ibid.*, s. 26 (*b*).
[8] These words were inserted, *ibid.*, s. 26 (*c*).
[9] These words were inserted, *ibid.*, s. 26 (*c*).

which may extend to Re. 1 per day for every day during which [1][such strike or stoppage continues after such conviction] subject to a maximum of Rs. 50.

Penalty for instigating, etc., illegal strikes [2][lock-outs, closures and stoppages.]

104. Any person who instigates or incites others to take part in, or otherwise acts in furtherance of a lockout [3][or a closure] for which an employer is punishable under section 102 or a strike [4][or a stoppage] for which any employee is punishable under section 103, shall, on conviction, be punishable with imprisonment of either description for a term which may extend to three months, or with fine or with both :

Provided that no person shall be punished under this section where the Court trying the offence is of opinion that in the circumstances of the case a reasonable doubt existed at the time of the commission of the offence about the legality of the [5][strike, lockout, closure or stoppage], as the case may be.

Explanation I.—For the purposes of this section, a person who contributes, collects or solicits funds for the purposes of any such [5][strike, lock-out, closure or stoppage] shall be deemed to act in furtherance thereof.

Explanation II.—A person shall be deemed to have committed an offence under this section if before an illegal [5][strike, lock-out, closure or stoppage] has commenced, he has instigated or incited others to take part in, or otherwise acted in furtherance of such [5][strike, lock-out, closure or stoppage.]

Penalty for disclosing confidential information.

105. If a Conciliator, a member of a Board or a Labour Officer or any person present at or concerned in any conciliation proceeding wilfully discloses any information or the contents of any document in contravention of the provisions of this Act, he shall, on conviction, on a complaint made by the party who gave the information or produced the document in such proceeding be punishable, with fine which may extend to Rs. 1,000.

Penalty for illegal change.

106. (*1*) Any employer who makes an illegal change shall, on conviction, be punishable with fine which may extend to Rs. 5,000.

(*2*) Any employer who contravenes the provisions of section 47 shall, on conviction, be punishable with imprisonment which may extend to three months, or for every day on which the contravention continues with fine which may extend to Rs. 5,000, or with both.

(*3*) The Court convicting any person under sub-section (*1*) or (*2*) may direct such person to pay such compensation as it may determine to any employee directly and adversely affected by the change in issue.

Penalty for failure to appoint members on Joint Committee.

[6][**106A.** Any employer who fails to appoint members of a Joint Committee to be constituted on an application made by the union within the period specified in the order made under sub-section (*1*) of section 49 shall, on conviction, be punishable with fine which may extend to fifty rupees and in the case of a continuing failure with an additional fine which may extend to fifty rupees for every day during which such failure continues.]

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[1] These words were substituted for the original, by Bom. 74 of 1948, s. 26 (*d*).
[2] These words were substituted for the original, *ibid*, s. 27 (*d*).
[3] These words were inserted, *ibid.*, s. 27 (*a*).
[4] These words were inserted, *ibid.*, s. 27 (*b*).
[5] These words were substituted for the original, *ibid.*, s. 27 (*c*).
[6] This section was inserted by Bom. 43 of 1948, s. 22.

107. Any employer who acts in contravention of a standing order settled under Chapter VII shall, on conviction, be punishable with fine which may extend to Rs. 500 and in the case of a continuing contravention of such standing order, with an additional fine which may extend to Rs. 125 per day for every day during which such contravention continues. Penalty for contravention of a standing order.

108. Any person who wilfully refuses entry to a Labour Officer or such officer of an approved union as is authorised under section 25 to any place which he is entitled to enter, or fails to produce any document which he is required to produce, or fails to comply with any requisition or order issued to him by or under the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to Rs. 500. Penalty for obstructing person from carrying out duties.

109. Whoever contravenes any of the provisions of this Act or of any rule made thereunder shall, on conviction, if no other penalty is elsewhere provided by or under this Act for such contravention, be punishable with fine which may extend to Rs. 100 and, in the event of such person having been previously convicted of an offence under this Act or any rule made thereunder with fine which may extend to Rs. 200. Penalties for offences not provided for elsewhere.

110. The amount of any fine imposed and any compensation directed by any Court to be paid under this Act shall be recoverable as arrears of land revenue. Recovery of fines and compensation.

CHAPTER XVII.

RECORD OF INDUSTRIAL CONDITION.

111. The Provincial Government may in respect of any industry— Record of industrial matters, etc.

(*a*) maintain in the prescribed manner a record of industrial matters covered by the Schedules;

(*b*) require any employer or employers generally to maintain and submit copies of a record in such form as may be prescribed of—

(*i*) data relating to plant, premises and manufacture,

(*ii*) other industrial transactions and dealings,

which in the opinion of the Provincial Government are likely to affect the matters specified in clause (*a*).

112. (*1*) For the purpose of verifying the accuracy of any records maintained by an employer under the provisions of section 111, an officer authorised by the Provincial Government may, subject to the prescribed conditions hold an inquiry and may require any person to, and such person thereupon shall, produce any relevant record or document in his possession and may after reasonable notice, at any reasonable time enter any premises wherein he believes such record or document to be, and may ask any question necessary for verifying such records: Inquiry for verification of records.

Provided that where such premises are not the usual business premises of a person, such officer shall not without the previous permission of the Provincial Government enter them under this sub-section.

(*2*) Any proceeding held by him for the purpose of obtaining information for such record shall be deemed to be a judicial proceeding within the meaning of section 192 of the Indian Penal Code. XLV of 1860.

CHAPTER XVIII.

MISCELLANEOUS

Modifications in Schedules.

113. The Provincial Government may, by notification in the *Official Gazette*, at any time, make any additions to or alterations in the industrial matters specified in Schedule I, II or III or may delete therefrom any such matter:

Provided that before making any such addition, alteration or deletion, a draft of such addition, alteration or deletion shall be published for the information of all persons likely to be affected thereby and the Provincial Government shall consider any objection or suggestion that may be received by it from any person with respect thereto.

Agreement, etc., on whom binding.

114. (*1*) A registered agreement, or a settlement, submission or award shall be binding upon all persons who are parties thereto:

Provided that—

(*a*) in the case of an employer, who is a party to such agreement, settlement, submission or award, his successors in interest, heirs or assigns in respect of the undertaking as regards which the agreement, settlement, submission or award is made, and

(*b*) in the case of a registered union which is a party to such agreement, settlement, submission or award, all persons who were members of such union at the date of such agreement, settlement, submission or award or who become members of the union thereafter,

shall be bound by such agreement, settlement, submission or award.

(*2*) In cases in which a Representative Union is a party to a registered agreement, or a settlement, submission or award, the Provincial Government may, after giving the parties affected an opportunity of being heard, by notification in the *Official Gazette*, direct that such agreement, settlement, submission or award shall be binding upon such other employers and employees in such industry or occupation in that local area as may be specified in the notification:

Provided that before giving a direction under this section the Provincial Government may, in such cases as it deems fit, make a reference to the Industrial Court for its opinion.

(*3*) A registered agreement entered into by the representatives of the majority of the employees affected or deemed to be affected under section 43 by a change shall bind all the employees so affected or deemed to be affected.

Order or decision of [1][Wage Board or Labour Court] on whom binding.

115. An order or decision of a [1][Wage Board or Labour Court] against an employer shall bind his successors in interest, heirs and assigns in respect of the undertaking as regards which it is made or given and such order or decision against a registered union shall bind all persons who were members of the union at the date of the order or decision or who become members of the union thereafter.

Agreement, etc., when to cease to have effect.

116. (*1*) A registered agreement, or a settlement or award shall cease to have effect on the date specified therein or if no such date is specified therein, on the expiry of the period of two months from the date on which notice in writing to terminate such agreement, settlement or award, as the case may be, is given in the prescribed manner by any of the parties thereto to the other party:

Provided that no such notice shall be given till the expiry of three months after the agreement, settlement or award comes into operation.

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[1] These words were substituted for the original by Bom. 43 of 1948, s. 23.

(*2*) Nothing in this section shall prevent the terms of a registered agreement or a settlement being changed or modified by mutual consent of the parties affected thereby.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), if a registered agreement, or a settlement or award provides that it shall remain in force for a period exceeding one year, it may after the expiry of one year from the date of its commencement be terminated by either party thereto giving two months' notice in the prescribed manner to the other party.

(*4*) The party giving notice under sub-section (*1*) or (*3*) shall send a copy of it to the Registrar and the Labour Officer of the local area concerned.

(*5*) If a registered agreement, or a settlement or award is terminated under sub-section (*1*) or (*3*) or if the terms of a registered agreement or a settlement are changed or modified by mutual consent, notice of such termination, change or modification shall be given by the parties concerned to the Registrar and the Labour Officer. The Registrar shall enter the notice of such termination, change or modification in a register kept for the purpose.

Explanation.—For the purposes of this section, parties who shall be competent to terminate a registered agreement, or a settlement or award, or to change or to modify the terms of a registered agreement or a settlement and who shall give notice of such termination, change or modification under sub-section (*5*) shall be the employer who has signed the agreement or settlement or who is a party to the award or the heirs, successors or assigns of such employer in respect of the undertaking concerned and the representative of the employees affected by the agreement, settlement or award.

Modification of award.

[1]**116A** (*1*) Any party who under the provisions of section 116 is entitled to give notice of the termination of an award may instead of giving such notice, apply after the expiry of the period specified in sub-section (*2*), to the Industrial Court, the Labour Court or the Wage Board making the award, for its modification.

(*2*) Such application in the case of an award,—

(*a*) which does not specify a date on which it shall cease to have effect shall not be made until the expiry of the period of two months from the date on which notice can be given to terminate the award under section 116;

(*b*) which provides that it shall remain in force for a period exceeding one year, shall not be made until the expiry of one year from the date of its commencement.

(*3*) On such application being made, the Industrial Court, the Labour Court or the Wage Board, as the case may be, may, after hearing the parties and taking such evidence as it thinks fit, modify the award.

(*4*) Where an application for the modification of an award under sub-section (*1*) is made, such application shall not in any way affect the binding effect of such award in regard to the matters determined therein until it is modified.

(*5*) Nothing in this section shall affect the right of any party to terminate such award in accordance with the provisions of section 116.]

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[1] This section was inserted by Bom. 74 of 1948, s. 28.

Liability of the executive of a union.

117. Where anything is required to be done by any union under this Act, the person authorised in this behalf by the executive of the union, and where no person is so authorised every member of the executive of the union, shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purposes of this section, the executive of a union means the body by whatever name called to which the management of the affairs of the union is entrusted.

Powers of certain authorities to summon witnesses, etc.

118. (*1*) For the purpose of holding an inquiry or proceeding under this Act, the Registrar, a Conciliator, [1][a Wage Board], Board, Labour Court in its ordinary jurisdiction, a Court of Enquiry and the Industrial Court shall have the same powers as are vested in Courts in respect of—

(*a*) proof of facts by affidavits;

(*b*) summoning and enforcing the attendance of any person and examining him on oath;

(*c*) compelling the production of documents; and

(*d*) issuing commissions for the examinations of witnesses.

(*2*) The Registrar, a Conciliator [1][a Wage Board] or Board shall also have such further powers as may be prescribed.

(*3*) For the purpose of obtaining the information necessary for compiling and maintaining the record under Chapter XVII the officer authorised under section 112 shall have the powers specified in clauses (*b*) and (*c*) of sub-section (*1*) and in sub-section (*2*).

Offences under section 104 cognizable.

[2] [**118A.** The offence under section 104 shall be cognizable.]

Certain officers to be public servants.

119. The Registrar, an Assistant Registrar, a Conciliator, a Labour Officer, an Assistant Labour Officer, an arbitrator, [3][a member of a Wage Board] a member of a Board, an officer authorised under section 112, a Judge of a Labour Court, a member of the Industrial Court or a Court of Enquiry and a member of the staff of any of the said Courts shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Contempt of Industrial Court, Labour Courts and Wage Boards relating to omission to produce documents, etc.

[4][**119A.** (*1*) If any person—

(*a*) when ordered by the Industrial Court or a Labour Court or a Wage Board to produce or deliver up any document, being legally bound intentionally omits to do so; or

(*b*) when required by the Industrial Court or a Labour Court or a Wage Board to bind himself by an oath or affirmation to state the truth refuses to do so;

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[1] These words were inserted by Bom. 43 of 1948, s. 24.

[2] This section was inserted, *ibid.*, s. 25.

[3] These words were inserted, *ibid.*, s. 26.

[4] Sections 119-A and 119-B were inserted, *ibid.*, s. 27.

(*c*) being legally bound to state the truth on any subject to the Industrial Court or a Labour Court or a Wage Board refuses to answer any question demanded of him touching such subject by such Court or Board; or

(*d*) intentionally offers any insult or causes any interruption to the Industrial Court or a Labour Court or a Wage Board at any stage of its judicial proceeding. he shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

(*2*) If any person refuses to sign any statement made by him when required to do so by the Industrial Court or a Labour Court or a Wage Board, he shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

(*3*) If any offence under sub-section (*1*) or (*2*) is committed in the view or presence of the Industrial Court or a Labour Court or a Wage Board, as the case may be, such Court or Wage Board may, after recording the facts constituting the offence and the statement of the accused as provided in the Code of Criminal Procedure, 1898, forward the case to a magistrate having jurisdiction to try the same and may require security to be given for the appearance of the accused person before such magistrate or, if sufficient security is not given, shall forward such person in custody to such magistrate. The magistrate to whom any case is so forwarded shall proceed to hear the complaint against the accused person is the manner provided in the said Code of Criminal Procedure.

V of 1898.

Other kinds of contempts of Industrial Court, Labour Courts and Wage Boards.

119B. (*1*) If any person commits any act or publishes any writing which is calculated to improperly influence the Industrial Court, or a Labour Court or a Wage Board or to bring such Court, Board, or a member or a Judge thereof into disrepute or contempt or to lower its or his authority, or to interfere with the lawful process of any such Court or Board, such person shall be deemed to be guilty of contempt of such Court or Board, as the case may be.

(*2*) In the case of contempt of itself the Industrial Court shall record the facts constituting such contempt and make a report in that behalf to the High Court.

(*3*) In the case of contempt of a Wage Board or a Labour Court, such Board or Court shall record the facts constituting such contempt and make a report in that behalf to the Industrial Court; and thereupon the Industrial Court may, if it considers it expedient to do so, forward the report to the High Court.

(*4*) When any intimation or report in respect of any contempt is received by the High Court under sub-section (*2*) or (*3*), the High Court shall deal with such contempt as if it were contempt of itself and shall have and exercise in respect of it the same jurisdiction, powers and authority in accordance with the same procedure and practice as it has and exercises in respect of contempt of itself.]

Provisions of Act VII of 1929 not to be affected.

120. Nothing in this Act shall affect any of the provisions of the Trade Disputes Act, 1929, and no conciliation or arbitration proceeding shall be held under this Act relating to any matter or trade dispute which has been referred to and is pending before a Court of Enquiry or Board of Conciliation under the said Act.

VII of 1929.

Repeal of Bom. IX of 1934.

121. The Bombay Trade Disputes Conciliation Act, 1934, shall cease to apply in a local area to any industry in respect of which the provisions of this Act have been brought into force in such local area. Bom. IX of 1934.

Repeal of Bom. XXV of 1938.

122. The Bombay Industrial Disputes Act, 1938, is hereby repealed : Bom. XXV of 1938.

Provided that—

(*a*) every appointment, order, rule, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made or issued under the provisions of this Act, unless and until superseded by any appointment, order, rule, regulation, notification or notice made, issued or given under this Act ;

(*b*) any standing order settled, agreement registered, changes which have come into operation, settlements recorded or registered, submissions registered, awards made or orders passed by the Industrial Court, under the provisions of the Act so repealed shall be deemed to have been settled, registered, to have come into operation, to have been recorded, made or passed by the appropriate authority under the corresponding provisions of this Act ;

(*c*) any right, privilege, obligation or liability acquired, accrued or incurred under the Act so repealed shall not be affected and any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation or liability shall, so far as it is not inconsistent with the provisions of this Act, be made, instituted and availed of as if the said Act had not been repealed and continues in operation ;

(*d*) any proceedings pending before the Industrial Court, conciliation proceedings, or any proceedings relating to the trial of offences punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed and continues in operation ; and any penalty imposed in such proceedings shall be recorded under the Act so repealed ;

(*e*) a registered union or a Representative Union or a Qualified Union or other representatives elected, entitled to appear or act as the representatives of employees under the Act so repealed shall, notwithstanding the repeal of the said Act, continue to act as the representatives of employees in any proceedings under this Act for a period of three months from the date on which this Act comes into force.

Rules.

123. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules to carry out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters namely :—

(*a*) the authority to be prescribed under sub-clause (*c*) of clause (*14*) of section 3 ;

(*b*) the manner in which the panels representing the interests of employers and employees shall be constituted and the manner in which vacancies in the Board of Conciliation shall be filled up under section 7 ;

(*c*) the qualifications for being eligible to be appointed to preside over Labour Courts under section 9 ;

(*d*) the form in which the registers of unions and the approved list shall be maintained under section 12 ;

(*e*) the form of application under sub-sections (*1*), (*2*) and (*3*) of section 13 ;

(*f*) the fee to be paid, and the form of certificate of registration to be issued, under section 14 ;

(*g*) the fee to be paid under sub-section (*1*), and the manner of publication under sub-section (4), of section 16 ;

(*h*) the fee to be paid under sub-section (*1*) of section 17 ;

(*i*) the dates on which and the manner in which returns shall be submitted under section 19 ;

(*j*) the manner of publication of orders under section 21 ;

(*k*) the manner of registration of a union for more local areas than one under section 22 ;

(*l*) the form of application under section 23 ;

(*m*) the officers [1][and members of approved unions] to be authorised under section 25 and the manner in which and the conditions subject to which the rights under that section shall be exercised ;

(*n*) the fees to be prescribed under sub-section (*6*) of section 26 ;

(*o*) the authority to be prescribed under clause (*b*) of sub-section (*2*), and the manner of determining the representative of employers under sub-section (*3*), of section 27 ;

(*p*) the manner in which the persons shall be elected under sub-section (*1*), recalled under sub-section (*4*), the period for which and the manner in which they shall function and the manner in which vacancies shall be filled under sub-section (*5*), of section 28 ;

(*q*) the manner of authorising a Qualified or Primary Union under clause (*iii*) of, the manner of accepting the terms of an agreement or settlement under proviso *Secondly* and the number of representatives and the manner of their election under proviso *Thirdly* to, section 30 ;

(*r*) the conditions subject to which the powers of entry and inspection shall be exercised under sub-section (*2*) of section 34 ;

(*s*) the manner of submission of draft standing orders under sub-section (*1*), and the manner of consulting the representative of employees and other interests under sub-section (*2*), of section 35 ;

(*t*) the form of notice and the other persons to be prescribed under sub-sections (*1*) and (*2*), and the manner of approach and the period to be prescribed under the proviso to sub-section (*4*), of section 42 ;

(*u*) the other persons to be prescribed under sub-section (*3*) of section 43 ;

(*v*) the manner of forwarding the memorandum of agreement under sub-section (*1*) of section 44 ;

(*w*) [2][the number of members of a Joint Committee, the manner of nomination of members by the union and the manner of giving copies of orders under sub-section (*1*), and] the appointment of the chairman and the manner in which he shall perform his duties under sub-section (*2*), of section 49 ;

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[1] These words were inserted by Bom. 43 of 1948, s. 28 (*i*).
[2] This portion was substituted for the original, *ibid*, s. 28 (*ii*).

(*x*) the manner of conducting the proceedings of a Joint Committee under sub-section (*2*) of section 50 ;

(*y*) the manner in which the memorandum of agreement shall be forwarded under sub-section (*1*), the form in which a special intimation shall be forwarded under sub-section (*2*), and the other persons to be prescribed under sub-section (*4*), of section 52 ;

(*z*) the form in which the statement shall be forwarded under sub-section (*1*) of section 54 ;

(*aa*) the manner of holding conciliation proceedings under sub-section (*1*) of section 56 ;

(*ab*) the form in which the memorandum of settlement shall be drawn up, and the manner of its publication under sub-section (*1*) of section 58 ;

(*ac*) the manner of giving notice under sub-section (*2*) of section 59 ;

(*ad*) the procedure to be followed by a Conciliator or Board under sub-section (*1*) of section 60 ;

(*ae*) the manner of publication of a submission under sub-section (*3*) of section 66 ;

(*af*) the modifications to be prescribed under sub-section (*2*), and the manner of making the employers parties to arbitration under sub-section (*3*), of section 72 ;

(*ag*) the manner of publication under sub-section (*2*) of section 74 ;

(*ah*) the form and manner in which an application shall be made under sub-section (*2*) of section 79 ;

[1][(*aha*) the other industrial matters and disputes under sub-section (*1*) of section 86C ;

(*ahb*) the rules of procedure to be followed by a Wage Board under section 86E ;]

(*ai*) the manner in which the record shall be maintained under section 111 ;

(*aj*) the conditions to be prescribed under sub-section (*1*) of section 112 ;

(*ak*) the manner of giving notice under section 116 ;

(*al*) the further powers of the Registrar, a Conciliator, [2][Wage Board] or Board under sub-section (*2*) of section 118 ;

(*am*) any other matter which is required to be or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

SCHEDULE I.

(SECTION 35.)

1. Classification of employees, e.g., permanent, temporary, apprentices, probationers, badlis, etc.

2. Manner of notification to employees of periods and hours of work, holidays, pay days and wage rates.

3. Notice to be given to employees of starting, alteration or discontinuance of two or more shifts in a department or departments.

4. Closure or reopening of a department or a section of a department or the whole of the undertaking.

5. Attendance and late coming.

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[1] These clauses were inserted, by Bom. 43 of 1948, s. 28 (*iii*).

[2] These words were inserted, *ibid.*, s. 28 (*iv*)

6. Leave : conditions, procedure and authority to grant.

7. Holidays : procedure and authority to grant.

8. Liability to search and entry into premises by certain gates.

9. Temporary stoppages of work, including playing off, and rights and liabilities of employers and employees arising therefrom.

10. Termination of employment: notice to be given by employer and employee.

11. Suspension or dismissal for misconduct, suspension pending inquiry into alleged misconduct and the acts or omissions which constitute misconduct.

12. Means of redress for employees against unfair treatment or wrongful exaction on the part of the employer or his agent or servant.

SCHEDULE II.

(SECTION 42.)

1. Reduction intended to be of permanent or semi-permanent character in the number of persons employed or to be employed in any occupation or process or department or departments or in a shift not due to *force majeure*.

2. Permanent or semi-permanent increase in the number of persons employed or to be employed in any occupation or process or department or departments.

3. Dismissal of any employee except as provided for in the standing orders applicable under this Act.

4. Rationalisation or other efficiency systems of work.

5. Starting, alteration or discontinuance of shift working otherwise than in accordance with the standing orders applicable under this Act.

6. Withdrawal of recognition to unions of employees.

7. Withdrawal of any customary concession or privilege or change in usage.

8. Introduction of new rules of discipline or alteration of existing rules and their interpretation, except in so far as they are provided for in the standing orders applicable under this Act.

9. Wages including the period and mode of payment.

10. Hours of work and rest intervals.

SCHEDULE III.

(SECTION 42.)

(1) Adequacy and quality of materials and equipment applied to the workers.

(2) Assignment of work and transfer of workers within the establishment.

(3) Health, safety and welfare of employees (including water, dining sheds, rest sheds latrines, urinals, creches, restaurants, and such other amenities).

(4) Matters relating to trade union organization, membership and levies.

(5) Construction and interpretation of awards, agreements and settlements.

(6) Employment including

(*i*) reinstatement and recruitment;

(*ii*) unemployment of persons previously employed in the industry concerned.

(7) Payment of compensation for stoppages.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Repeal of Bom. X of 1942.
3. Amendment of section 28 of Act XVI of 1908.

BOMBAY ACT No. XIV OF 1947.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1947.]

[*21st April 1947.*]

An Act to repeal and re-enact the provisions of the Indian Registration (Bombay Amendment) Act, 1942.

26 Geo. 5, Ch. 2. Bom. X of 1942.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the provisions of the Indian Registration (Bombay Amendment) Act, 1942; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1947.

Bom. X of 1942.

Repeal of Bom. X of 1942.

2. The Indian Registration (Bombay Amendment) Act, 1942, is repealed.

XVI of 1908.

Amendment of section 28 of Act XVI of 1908.

3. In section 28 of the Indian Registration Act, 1908, in its application to the Province of Bombay, for the brackets, letters and word "(*c*) and (*ee*)" the brackets, letters and word "(*c*), (*cc*) and (*ee*)" shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 1; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

THE PRISONERS (BOMBAY AMENDMENT) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendments of sections 35 and 37 of Act III of 1900.
3. Repeal of sections 38 and 39 of Act III of 1900.
4. Amendment of section 43 of Act III of 1900.

BOMBAY ACT No. XVII OF 1947.[1]

[THE PRISONERS (BOMBAY AMENDMENT) ACT, 1947.]

[*21st April 1947.*]

An Act to amend the Prisoners Act, 1900, in its application to the Province of Bombay.

III of 1900. WHEREAS it is expedient to amend the Prisoners Act, 1900, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Prisoners (Bombay Amendment) Act, 1947.

Amendment of sections 35 and 37 of Act III of 1900.

III of 1900. 2. In sections 35 and 37 of the Prisoners Act, 1900 (hereinafter called the said Act), the words and figures " Subject to the provisions of section 39 ," shall be deleted.

Repeal of sections 38 and 39 of Act III of 1900.

3. Sections 38 and 39 of the said Act shall be repealed.

Amendment of section 43 of Act III of 1900.

4. In clause (*a*) of section 43 of the said Act, for the words and figures " section 37 or section 39 " the words and figures " or-section 37 " shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 26.

THE BOMBAY HINDU WOMEN'S RIGHTS TO PROPERTY (EXTENSION TO AGRICULTURAL LAND) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Repeal of Bom. XVII of 1942.
3. Term " property " in Acts No. XVIII of 1937 and No. XI of 1983 to include agricultural land.

BOMBAY ACT No. XIX OF 1947.[1]

[THE BOMBAY HINDU WOMEN'S RIGHTS TO PROPERTY (EXTENSION TO AGRICULTURAL LAND) ACT, 1947.]

[*25th April 1947.*]

An Act to repeal the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942, and to re-enact section 2 thereof.

26 Geo. 5, Ch. 2. Bom. XVII of 1942.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942, and to re-enact section 2 thereof; It is hereby enacted as follows :—

Short title. and extent.

1. (*1*) This Act may be called the Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1947.

(*2*) It extends to the Province of Bombay.

Bom. XVII of 1942.

Repeal of Bom. XVII of 1942.

2. The Bombay Hindu Women's Rights to Property (Extension to Agricultural Land) Act, 1942, is hereby repealed.

Bom. XVIII of 1937. XI of 1938.

Term "property" in Acts No. XVIII of 1937 and No. XI of 1938 to include agricultural land.

3. The term "Property" in the Hindu Women's Rights to Property Act, 1937, and the Hindu Women's Rights to Property (Amendment) Act, 1938, as in force in the Province of Bombay, shall include, and shall be deemed always to have included, agricultural land :

Provided that nothing in this Act shall affect any rule of succession prescribed for tenants' rights in agricultural land by any special law for the time being in force.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 29.

THE BOMBAY HINDU DIVORCE ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Grounds for divorce.
4. Suits for judicial separation.
4A. Necessary parties in suits for divorce and judicial separation.
5. Courts in which suits to be instituted.
6. Alimony *pendente lite*.
7. Decrees in suit.
8. Permanent alimony.
9. Payment of alimony to wife or to her trustee.
10. Disposal of joint property.
11. Suits may be heard with closed doors.
12. Provisions of Civil Procedure Code to apply to suits under this Act.
13. Enforcement of an appeal from orders and decrees.
No appeal as to costs.
14. Liberty to parties to marry again.
15. Custody of children.
16. Rules.
17. Saving.

BOMBAY ACT No. XXII OF 1947.[1]

[THE BOMBAY HINDU DIVORCE ACT, 1947.]

[*12th May 1947.*]

Amended by Bom. 31 of 1949.

An Act to provide for a right of divorce among all communities of Hindus in certain circumstances.

WHEREAS it is expedient to provide for a right of divorce among all communities of Hindus in certain circumstances; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Hindu Divorce Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Court" means in Greater Bombay, the High Court in its ordinary original civil jurisdiction and elsewhere, the Court of a District Judge;

(*b*) "desert" means to desert without reasonable cause and without the consent or against the will of the spouse;

(*c*) "Hindu" includes a Sikh, Jain, Budhist, a follower of the Arya or Bramha Samaj or a convert to Hindusim;

(*d*) "husband" means a Hindu husband;

(*e*) "marriage" means a marriage between Hindus whether contracted before or after the coming into operation of this Act;

(*f*) "wife" means a Hindu wife.

Grounds for divorce.

3. (*1*) A husband or wife may sue for divorce on any of the following grounds namely:—

(*a*) that the defendant was impotent at the time of the marriage and continues to be so at the time of the institution of the suit;

(*b*) that the defendant has been a lunatic for a period of not less than seven years before the institution of the suit or is an idiot;

(*c*) that the defendant has been suffering from leprosy not contracted from the plaintiff for a period of not less than seven years before the institution of the suit;

(*d*) that the defendant has deserted the plaintiff for a continuous period of four years;

(*e*) that the defendant has not been heard of as being alive for the space of seven years by those persons who would have naturally heard of it had the defendant been alive;

(*f*) that the defendant, if a husband, has any other woman as a concubine, and if a wife, is a concubine of any other man or leads the life of a prostitute:

Provided that no such suit shall lie, except under clause (*d*) or (*f*), if the husband and wife have lived a married life for 20 years after attaining majority.

(*2*) A wife may also sue for divorce on the ground that her husband had married again before the coming into operation of the Bombay Prevention of Hindu Bigamous Marriages Act, 1946, and such wife is living at the time of the institution of the suit.

Bom. XXV of 1946.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 79; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

Suits for judicial separation.

4. Notwithstanding anything contained in section 3—

(*1*) a husband or wife may sue for judicial separation on the ground that the spouse is suffering from leprosy not contracted from the plaintiff,

(*2*) a husband may sue for judicial separation on the ground that his wife is a concubine of any other man or leads the life of a prostitute,

(*3*) a wife may sue for judicial separation—

(*a*) on the ground that her husband had married again before the coming into operation of the Bombay Prevention of Hindu Bigamous Marriages Act, 1946, and such wife is living at the time of the institution of the suit, or Bom. XXV of 1946.

(*b*) on the ground that her husband has any other woman as a concubine, or

(*c*) on the ground of legal cruelty.

Necessary parties in suits for divorce and judicial separation.

[1]**4A.** (*1*) Unless the Court otherwise orders, in every suit for divorce or judicial separation in which the defendant if a husband is alleged to have any other woman as a concubine, or if a wife is alleged to have been a concubine of any other man, the other woman or the other man, as the case may be, shall be a necessary party.

(*2*) In any suit in which such other man is a party, the Court may direct him to pay the whole or any part of the costs of the suit.]

Courts in which suits to be instituted.

5. (*1*) Every suit under this Act shall be instituted in the Court within the limits of whose jurisdiction the defendant resides at the time of the institution of the suit.

(*2*) Where the defendant shall at such time have left the Province or his whereabouts are unknown such suit shall be instituted in the Court at the place where the plaintiff and defendant last resided together.

(*3*) In any case, whether the defendant resides in the Province or not, such suit may be brought in the Court at the place where the plaintiff resides or at the place where the plaintiff and the defendant last resided together, if such court, after recording its reasons, grants leave so to do.

Alimony *pendente lite.*

6. In any suit under this Act if the wife shall not have an independent income sufficient for her support and the necessary expenses of the suit, the Court, on the application of the wife, may order the husband to pay her the expenses of the suit, and monthly during the suit such sum not exceeding one-fifth of her husband's net income as the Court, considering the circumstances of the parties, shall think reasonable.

Decrees in suit.

7. In any suit under section 3 or 4 whether defended or not, if the Court be satisfied that any of the grounds set forth in either of those sections for granting relief exist, the Court shall decree such relief accordingly.

Permanent alimony.

8. (*1*) If the Court thinks fit, it may, at the time of passing any decree under this Act or subsequent thereto, on application made to it for the purpose, order that the husband shall, while the wife remains chaste and unmarried, secure to the wife, for her maintenance and support, if necessary, by a charge on the husband's property such gross sum or such monthly or periodical payment of money for a term not not exceeding her life as, having regard to her own property, if any, her husband's property and the conduct of the parties, shall be deemed just.

(*2*) If the Court is satisfied that there is a change in the circumstances of either party at any time after it has made an order under sub-section (*1*), it may at the instance of either party vary, modify or rescind such order in such manner as the Court may deem just.

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[1] This section was inserted by Bom. 31 of 1949, s. 2.

(*3*) If the Court is satisfied that the wife in whose favour an order has been made under sub-section (*1*) or (*2*) has remarried or has not remained chaste, it shall vary or rescind the order.

9. In all cases in which the Court shall make any decree or order for alimony it may direct the same to be paid either to the wife herself, or to any trustee on her behalf to be approved by the Court, and may impose any terms or restrictions which to the Court may seem expedient, and may from time to time appoint a new trustee, if for any reason it shall appear to the Court expedient so to do. Payment of alimony to wife or to her trustee.

10. In any suit under this Act, the Court may make such provisions in the decree as it may deem just and proper with respect to property presented at or about the time of marriage which may belong jointly to both the husband and wife. Disposal of joint property.

11. A suit under this Act shall be tried with closed doors at the instance of either party or if the Court thinks fit. Suits may be heard with closed doors.

12. Save as herein otherwise provided, the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to all proceedings instituted under this Act including proceedings in execution and orders subsequent to decree. Provisions of Civil Procedure Code to apply to suits under this Act.

V of 1908.

13. All decrees and orders made by the Court in any suit or proceeding under this Act shall be enforced in like manner as the decrees and orders of the Court made in the exercise of its original civil jurisdiction are enforced and may be appealed from, under the law for the time being in force : Enforcement of an appeal from orders and decrees.

Provided that there shall be no appeal on the subject of costs only : No appeal as to costs.

Provided further that such appeal shall be instituted within three calendar months after the decision appealed from shall have been pronounced.

14. When the time for an appeal against any decree granting a divorce shall have expired, and no appeal shall have been presented against such decree, or when any such appeal shall have been dismissed, or when in the result of any appeal a divorce has been granted and six months have elapsed thereafter but not sooner, it shall be lawful for the parties thereto to marry again, as if the prior marriage had been terminated by death. Liberty to parties to marry again.

15. In any suit under this Act, the Court may from time to time pass such interim orders and make such provisions in the decree as it may deem just and proper with respect to the custody, maintenance and education of minor children, the marriage of whose parents is the subject of such suit, and may, after the decree, upon application by petition for the purpose, make, revoke, suspend or vary from time to time all such orders and provisions with respect to the custody, maintenance and education of such children as might have been made by such decree or interim orders in case the suit for obtaining such decree were still pending. Custody of children.

16. The Provincial Government may by notification in the Official Gazette, and subject to the condition of previous publication, make rules for the purpose of carrying into effect the provisions of this Act. Rules.

17. Nothing contained in this Act— Saving.

(*1*) shall apply to Hindus marrying under the provisions of the Special Marriage Act, 1872 ; or

III of 1872.

(*2*) shall affect any right of divorce or judicial separation recognised by custom.

BOMBAY ACT No. XXIV OF 1947.[1]

[THE COURT-FEES (BOMBAY AMENDMENT) ACT, 1946.]

[*14th May 1947.*]

An Act to amend the Court-fees Act, 1870, in its application to the Province of Bombay.

VII of 1870. WHEREAS it is expedient to amend the Court-fees Act, 1870, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Court-fees (Bombay Amendment) Act, 1946.

Amendment of section 11 of Act VII of 1870.

VII of 1870. 2. For section 11 of the Court-fees Act, 1870, in its application to the Province of Bombay the following shall be substituted, namely :—

Taxing of Court-fees and their recovery in suits for mesne profits or account.

"11. (*1*) In a suit for the recovery of possession of immoveable property and mesne profits or for mesne profits or for an account, the difference, if any, between the fee actually paid and the fee which would have been payable had the suit comprised the whole of the profits or amount found due shall, on delivery of judgment, be taxed by the Court and shall be leviable from the plaintiff and if not paid by him within thirty days from the date of the judgment be recoverable according to the law and under the rules for the time being in force for the recovery of arrears of land revenue.

(*2*) The Court shall send a copy of the decree passed in such suit to the Collector.

(*3*) No decree for mesne profits passed in any such suit by the Court shall be executed until such difference is paid or recovered.

Explanation.—For the purpose of this section 'plaintiff' includes any party to a suit to whom any profits or amount are or is found to be due".

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 233; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

THE BOMBAY (EMERGENCY POWERS) WHIPPING ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Punishment of whipping for certain offences.
3. Punishment for certain offences punishable under Bom. IV of 1902 and Bom. IV of 1890.
4. Repeal of Bom. XI of 1941.

BOMBAY ACT No. XXVII OF 1947.[1]

[THE BOMBAY (EMERGENCY POWERS) WHIPPING ACT, 1947.]

[*26th May 1947.*]

An Act to re-enact the Bombay (Emergency Powers) Whipping Act, 1941, and to amend further the law relating to the punishment of whipping in the Province of Bombay.

26 Geo. 5, Ch. 2. Bom. XI of 1941.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to re-enact the provisions of the Bombay (Emergency Powers) Whipping Act, 1941;

AND WHEREAS it is expedient to amend further the law relating to the punishment of whipping in the Province of Bombay; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay (Emergency Powers) Whipping Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) This section and section 4 shall come into force at once. The Provincial Government may, by notification in the *Official Gazette*, direct that section 2 or section 3 shall come into force in such area and from such date as may be specified in such notification.

Punishment of whipping for certain offences.

IV of 1909. XLV of 1860.

2. In addition to the persons who may be punished with whipping under section 4 of the Whipping Act, 1909, whoever commits or abets the commission of any offence punishable under sections 147, 148, 324, 325, 326, 435 or 436 of the Indian Penal Code may be punished with whipping in addition to any punishment to which he may be liable for such offence or for abetment of such offence under the said Code.

Punishment for certain offences punishable under Bom. IV of 1902 and Bom. IV of 1890.

Bom. IV of 1902.

3. (*1*) Whoever—

(*a*) commits an offence punishable under clause (*a*) of section 112 of the City of Bombay Police Act, 1902 (hereinafter called the said Act) or

(*b*) is punishable under clause (*b*) or clause (*c*) of section 122 of the said Act—

(*i*) for behaving in a riotous manner, or

(*ii*) for using any threatening words or gestures whereby a breach of the peace or public nuisance may be occasioned,

may be punished with whipping in lieu of any punishment to which he may be liable for such offence under the said Act.

Bom. IV of 1890.

(*2*) Whoever commits an offence punishable under clause (*a*) of section 61D of the Bombay District Police Act 1890, may be punished with whipping in lieu of any punishment to which he may be liable for such offence under the said Act.

Repeal of Bom. XI of 1941.

Bom. XI of 1941.

4. The Bombay (Emergency Powers) Whipping Act, 1941, is hereby repealed.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V, page 99; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

THE BOMBAY AGRICULTURAL DEBTORS RELIEF ACT, 1947.

CONTENTS.

PREAMBLE.

CHAPTER I.

PRELIMINARY.

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2. Definitions.
3. Savings.

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PROCEDURE FOR ADJUSTMENT OF DEBTS.

4. Application for adjustment of debts.
5. Every creditor and debtor to file a true and correct statement before Court.
6. Application by debtor jointly and severally liable.
7. Assignees from non-debtor not entitled to benefit of this act.
8. Application for recording settlement.
9. Settlement during pendency of proceedings before Court.
10. Certain settlements to be void.
11. Application under section 4 or 8 to be made only in respect of debtors, whose debts are not more than Rs. 15,000.
12. Withdrawal of applications.
13. Consolidation of applications.
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16. Duties of debtors and creditors.
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18. [*Repealed.*]
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20. Taking of accounts.
21. Examination of creditor and debtor.
22. Mode of taking accounts.
23. In certain cases rent may be charged in lieu of profits.
24. Power of Court to declare transfer purporting to be sale to be in nature of mortgage.
25. Provisions of section 24 not to apply to certain transfers and transferees.
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46. Provisions of Civil Procedure Code to apply to proceedings.

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49. Distribution of assets of insolvent.
50. Bar to application in insolvency in other Courts.
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53. Alienation of standing crops, etc., before repayment of loan prohibited.
54. Power of Provincial Government to authorize any person to advance loans to debtors.
55. Rules.
56. Repeal of Act XVII of 1879 and Bom. XXVIII of 1939.

BOMBAY ACT No. XXVIII OF 1947.[1]

[THE BOMBAY AGRICULTURAL DEBTORS RELIEF ACT, 1947.]

[*27th May 1947.*]

Amended by Bom. 70 of 1948.

An Act to consolidate and amend the law for the Relief of Agricultural Debtors in the Province of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the relief of agricultural debtors in the Province of Bombay and for certain other purposes specified herein ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Agricultural Debtors Relief Act, 1947.

(*2*) It extends to the whole of the Province of Bombay except the City of Bombay ;

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) " award " means an award made under sub-section (*4*) of section 8 or section 9, 32 or 33 or as confirmed or modified by the Court in appeal ;

Bom. VII of 1925.

(*2*) " co-operative society " means a society registered under the provisions of the Bombay Co-operative Societies Act, 1925 ;

(*3*) " Court " means the court of the Civil Judge (Senior Division), having ordinary jurisdiction in the area where the debtor ordinarily resides and if there is no such Civil Judge, the court of the Civil Judge (Junior Division), having such jurisdiction [2][and includes any court to which an application may be referred to for disposal under section 13A] ;

(*4*) " debt " means any liability in cash or kind, whether secured or unsecured due from a debtor whether payable under a decree or order of any civil court or otherwise [3][and includes mortgage money the payment of which is secured by the usufructuary mortgage of immovable property] but does not include arrears of wages payable in respect of agricultural or manual labour ;

(*5*) " debtor " means—

(*a*) an individual—

(*i*) who is indebted ;

(*ii*) who holds land used for agricultural purposes or has held such land at any time not more than 30 years before the 30th January 1940, which has been transferred whether under an instrument or not and which transfer is in the nature of a mortgage although not purporting to be so ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Pt. V ; page 65 for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

[2] These words were added by Bom. 70 of 1948, s. 2 (*1*).

[3] These words were inserted, *ibid.*, s. 2 (*2*).

(*iii*) who has been cultivating land personally for the cultivating seasons in the two years immediately preceding the date of the coming into operation of this Act or of the establishment of the Board concerned under the repealed Act; and

(*iv*) whose annual income from sources other than agriculture and manual labour does not exceed 33 per cent. of his total annual income or does not exceed Rs. 500, whichever is greater;

(*b*) an undivided Hindu family—

(*i*) which is indebted;

(*ii*) which holds land used for agricultural purposes or has held such land at any time not more than 30 years before the 30th January 1940, which land has been transferred whether under an instrument or not and which transfer is in the nature of a mortgage although not purporting to be so;

(*iii*) which has been cultivating land personally for the cultivating seasons in the two years immediately preceding the date of the coming into operation of this Act or of the establishment of the Board concerned under the repealed Act; and

(*iv*) the annual income of which from sources other than agriculture and manual labour does not exceed 40 per cent. of its total annual income and the aggregate of such incomes of the members of which does not exceed Rs. 1,500.

Explanation.—[1][*I*] For the purposes of this clause "agriculture" includes horticulture, the raising of crops or garden produce, dairy farming, poultry farming, stock breeding and grazing, but does not include leasing of land or cutting only of wood;

[2][*Explanation II.*—In the case of—

(*a*) any person who dies leaving as his heir, a widow or a minor or a person who is subject to physical or mental disability, or

(*b*) an undivided Hindu family, in which there are no adult male co-parceners capable of cultivating the land personally,

the income derived by such heir or family by the lease of land for an agricultural purpose shall, notwithstanding anything contained in Explanation I, be deemed to be income from agriculture.]

[3][(*6*) 'financing of crops' means advancing of loans for the raising of crops during the ploughing season or later for ploughing, sowing, harrowing, weeding, harvesting, purchase of seeds, manured or for such other purposes as may be prescribed, such loans being repayable during the season when the crops for which the loans were advanced are harvested;]

(*7*) "holder" means a holder as defined in clause (*11*) of section 3 of the Bombay Land Revenue Code, 1879, and includes a holder of land held for the performance of service useful to Government or village community, which service is actually being performed but does not include a holder of any land held on behalf of a religious or charitable institution; and the expression "to hold land" shall be construed accordingly; Bom. V of 1879.

(*8*) "prescribed" means prescribed by rules;

(*9*) "repealed Act" means the Bombay Agricultural Debtors Relief Act, 1939; Bom. XXVIII of 1939.

(*10*) "resource society" shall have the same meaning as it has in the Bombay Co-operative Societies Act, 1925; Bom. VII of 1925.

[1] This Explanation was numbered as Explanation I by Bom. 70 of 1948, s. 2 (*3*).
[2] This Explanation was added, *ibid.*
[3] This sub-section was substituted for the original, *ibid.*, s. 2 (*4*).

(*11*) "rules" means rules made under section 55;

(*12*) "scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934; II of 1934.

(*13*) "seasonal finance" means advancing of loans for such purposes as may be prescribed, such loans being repayable on or before the 15th May following;

(*14*) "to cultivate personally" means to cultivate by one's own labour or by the labour of any member of one's family or by servants hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.—If a person who was cultivating personally dies leaving as his heir a widow or a minor or a person who is subject to physical or mental disability, such heir shall be deemed to cultivate the land personally notwithstanding the fact that the land is cultivated on behalf of such heir by servants or hired labour or by tenants.

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally if it is cultivated by any member of such family. If there are no adult male co-parceners in such family capable of cultivating the land personally, such family such be deemed to be cultivating the land personally if the land is cultivated on behalf of such family by servants or hired labour or by tenants;

(*15*) words and expressions used in this Act, but not defined, have the meanings assigned to them in the Code of Civil Procedure, 1908, or the Bombay Land Revenue Code, 1879, as the case may be. V of 1908, Bom. V of 1879.

3. Save as otherwise expressly provided, nothing in this Act shall affect the debts and liabilities of a debtor falling under the following heads, namely :— Savings.

(*i*) any revenue or tax payable to Government or any other sum due to it by way of loan or otherwise,

(*ii*) any tax payable to a local authority or any other sum payable to such authority by way of loan or otherwise,

(*iii*) any sum due to a co-operative society,

(*iv*) any sum advanced solely for the purpose of financing of crops as provided in the repealed Act or for the purpose of seasonal finance as provided in this Act,

(*v*) any sum due under a decree or order for maintenance passed by a competent Court, and

(*vi*) any sum due to a scheduled bank.

CHAPTER II.

PROCEDURE FOR ADJUSTMENT OF DEBTS.

4. (*1*) Any debtor ordinarily residing in any local area for which a Board was established under section 4 of the repealed Act on or after the 1st February 1947, or his creditor may make an application before the 1st August 1947 to the Court for the adjustment of his debts. Application for adjustment of debts.

(*2*) Every application made under sub-section (*1*) shall be in writing in the prescribed form and shall be signed, verified and presented in the prescribed manner.

(*3*) Notwithstanding anything contained in section 3 an application made under this section shall contain the amounts and particulars of all debts specified in that section due by the debtor.

Every creditor and debtor to file a true and correct statement before Court.

5. (*1*) Notwithstanding the fact that no application has been filed under section 4—

(*a*) every creditor, on being required to do so by notice in writing by any of his debtors, shall, within two months from the date of the receipt of such notice, file before the Court a true and correct statement of all his claims against such debtor, and shall at the same time send a copy thereof to such debtor, and

(*b*) every debtor, on being required to do so by notice in writing by any of his creditors, shall, within two months from the date of the receipt of such notice, file before the Court a true and correct statement—

(*i*) of all the debts owed by such debtor;

(*ii*) whether he holds any land used for agricultural purposes and whether he has been cultivating land personally;

(*iii*) of his income from agriculture and from sources other than agriculture in the year preceding the date of the notice.

The debtor shall at the same time send a copy of such statement to such creditor:

Provided that the Court may, for sufficient cause, extend, from time to time, the period within which the creditor or the debtor, as the case may be, may file such statement.

(*2*) Every debtor or creditor giving a notice under sub-section (*1*) shall at same time send a copy thereof to the Court.

(*3*) In awarding the costs of any proceeding in respect of any application made under section 4 the Court may, on being satisfied that the statement required to be filed under sub-section (*1*) was, without sufficient cause, not filed within the time specified therein or within the period extended under the proviso to sub-section (*1*) or incorrectly filed, direct the party in default to bear the whole or any portion of the costs of such proceeding.

Application by debtor jointly and severally liable.

6. (*1*) If the payment of a debt due by a debtor is guaranteed by a surety or if a debtor is otherwise jointly and severally liable for any debt along with any other person and if the surety or such other person is not a debtor, the debtor may make an application under section 4 for relief in respect of such debt and the Court may after consideration of the facts and circumstances of the case proceed with the adjustment of debts under this Act in so far as such applicant is concerned.

(*2*) Whenever the debts due by a debtor which are guaranteed by a surety are adjusted under sub-section (*1*), the surety shall be discharged from liability in respect of the debts or portion of the debts of such debtor which are extinguished under sub-section (*1*) of section 15, sub-section (*3*) of section 17, sub-section (*5*) of section 26, section 34 or sub-section (*2*) of section 35; and the surety shall not be entitled to proceed against the debtor in respect of such debts or portion.

Assignees from non-debtor not entitled to benefit of this Act.

7. No application shall lie under section 4 for adjustment of any debt due from a debtor to whom such debt has been transferred or assigned after the 1st January 1938 by any person who is not himself a debtor.

Application for recording settlement.

8. (*1*) If any debtor and any or all of his creditors arrive at a settlement in respect of any debt due by the debtor to the creditor, the debtor or any of the creditors may, within thirty days from the date of such settlement, make an application to the Court for recording such settlement.

(*2*) Every such application shall be in the prescribed form and shall be signed and verified in the prescribed manner.

(*3*) On receipt of such application the Court shall, after giving notice to the creditor or the debtor, as the case may be, and after making such enquiry as it thinks fit, if it is satisfied that the settlement arrived at is *bona fide* and voluntary and is not made with intent to defeat or delay any of the creditors of the debtor, an is in the interest of the debtor, and that the debtor is a person who fulfils the conditions referred to in clauses (*a*) and (*b*) of sub-section (*1*) of section 17, record such settlement and certify the same. Every such settlement so recorded and certified shall be binding upon the parties thereto and shall not, save as otherwise hereinafter provided, be re-opened.

(*4*) After the Court has recorded and certified a settlement under sub-section (*3*), the Court shall call upon the debtor to make a declaration whether there are any other debts due by the debtor which are not included in the settlement. If the debtor makes a declaration that there are no such debts, the Court shall make an award in terms of such settlement.

(*5*) If the Court is satisfied, after recording such settlement, that there are other debts due from the debtor which are not included in the settlement, the Court shall treat the application made under sub-section (*1*) as an application for adjustment of debts under section 4.

Settlement during pendency of proceedings before Court.

9. Notwithstanding anything contained in the preceding sections, if during the pendency of proceedings before the Court or the Court in appeal, as the case may be, a settlement is arrived at between a debtor and all his creditors and if such Court is satisfied that the settlement has been made by the debtor voluntarily and is for his benefit, such Court may make an award in terms of such settlement.

Certain settlements to be void.

10. Every settlement of a debt due from a debtor to any creditor, which is not certified by the Court under section 8, or in terms of which no award has been made under section 9, shall be void and shall not be recognised by any Court for any purpose whatsoever.

Application under section 4 or 8 to be made only in respect of debtor whose debts are not more than Rs. 15,000.

11. No application under section 4 or 8 shall be entertained by the Court on behalf of or in respect of any debtor, unless the total amount of debts due from him on the date of the application is not more than Rs. 15,000.

Withdrawal of applications.

12. An application for adjustment of debts under section 4 or an application for recording a settlement under section 8 shall not be withdrawn without the leave of the Court.

Consolidation of applications.

13. Where two or more applications for adjustment of debts under section 4 are presented by or against the same debtor, all such applications shall be consolidated. Where such separate applications are presented [1][by or] against joint debtors, all such applications shall be heard together.

Power of Civil Judge to refer for disposal certain applications to Joint Civil Judge.

[2][**13A.** A Civil Judge may refer for disposal any application filed under section 4 or 8 to a Joint Civil Judge.]

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[1] These words were inserted by Bom. 70 of 1948, s. 3.

[2] This section was inserted, *ibid.*, s. 4.

Service of notice on debtors and creditors to submit statement of debts.

14. On receipt of an application for adjustment of debts, the Court shall—

(*a*) give notice to the debtor (unless the debtor is himself an applicant) and to every creditor (other than the creditor who is himself an applicant) whose name and address are given in the application, and

(*b*) publish a general notice,

requiring the debtor and all creditors to submit a statement in the prescribed form within one month from the date of the service of the notice or the publication of the general notice, whichever is later :

Provided that if the Court is satisfied that the debtor or any creditor is for good and sufficient cause unable to comply with the notice within the time specified therein it may extend the period for the submission of the statement.

Debts in respect of which no application for adjustment or settlement is made to be void.

15. (*1*) Every debt due from a debtor in respect of which no application has been made under section 4 within the period specified in the said section 4 or in respect of which no application for recording a settlement is made under section 8 within the period specified in the said section 8 or in respect of which an application made to the Court is withdrawn under section 12 and no fresh application is made under section 4 and every debt due from such debtor in respect of which a statement is not submitted to the Court by the creditor in compliance with the provisions of section 14 shall be extinguished.

(*2*) Nothing in this section shall apply to any debt due from any person who has by his declaration, act or omission intentionally caused or permitted his creditor to believe that he is not a debtor for the purposes of this Act or that no application under section 4 can be entertained in respect of any debt owed by such person to such creditor by reason of the provisions of section 11.

Duties of debtors and creditors.

16. (*1*) Every debtor by or against whom an application is made under section 4 or who is a party to an application made under section 8 shall produce all books of accounts and shall give such inventories of his property and such lists of his creditors and debtors and of the debts due from and to him, submit to such examination in respect of his property or his creditors, attend at such time before the Court, and generally do all such things as may be required by the Court or as may be prescribed.

(*2*) It shall be the duty of every creditor to produce such books of accounts, to submit to such examination and to supply such information in respect of the debt due to him by the debtor and the securities held by him, as may be required by the Court or as may be prescribed.

Preliminary issues.

17. (*1*) On the date fixed for the hearing of an application made under section 4, the Court shall decide the following points as preliminary issues :—

(*a*) whether the person for the adjustment of whose debts the application has been made is a debtor ;

(*b*) whether the total amount of debts due from such person on the date of the application exceeds Rs. 15,000.

(*2*) If the Court finds that such person is not a debtor or that the total amount of debts due from such person on the date of the application is more than Rs. 15,000, the Court shall dismiss the application forthwith :

Provided that before the application is so dismissed the creditors or any of them may remit any specific portion of their claim so as to reduce the total amount of the debts of all the creditors due from such person on the date of the application to a sum not exceeding Rs. 15,000. In such case the Court shall not dismiss the application but shall proceed further with the same.

(*3*) The portion of the debts in respect of which the claim is remitted under sub-section (*2*) shall be extinguished.

[1][*Explanation.*—For the purposes of this section, the expression "the date of the application" shall mean the date of an application which has been made within the period prescribed under section 4 and where there are two or more applications made for adjustment of debts of the same debtor, the date of the last of such applications.]

18. [*Court-fee to be refunded to creditor.*] *Rep. by Bom. 70 of 1948, s. 6.*

Transfer of pending suits, appeals, applications and proceedings to the Court.

19. (*1*) All suits, appeals, applications for execution and proceedings [2][including revisional proceedings pending before a District Judge under section 53 of the Dekkhan Agriculturists' Relief Act, 1879] in respect of any debt pending in any civil or revenue court shall, if they involve the questions whether the person from whom such debt is due is a debtor and whether the total amount of debts due from him [3] * * * * exceeds Rs. 15,000, be transferred to the Court.

XVII of 1879.

(*2*) When an application for adjustment of debts made to a Court under section 4 or a statement submitted to a Court under section 14 includes a debt in respect of which a suit, appeal, application for execution or proceeding [4][liable to be transferred under sub-section (*1*)] is pending before a civil or revenue court, the Court shall give notice thereof to such other court. On receipt of such notice, such other court shall transfer the suit, appeal, application or proceeding, as the case may be, to the Court.

(*3*) When any suit, appeal, application or proceeding is transferred to the Court under sub-section (*1*) or sub-section (*2*), the Court shall proceed as if an application under section 4 had been made to it.

(*4*) If the Court, to which any suit, appeal, application or proceeding is transferred under sub-section (*1*) or sub-section (*2*), decides the preliminary issue mentioned in clause (*a*) of sub-section (*1*) of section 17 in the negative or that mentioned in clause (*b*) of the said sub-section (*1*) in the affirmative, it shall retransfer the suit, appeal, application or proceeding to the court from which it had been transferred to itself after the disposal and subject to the result of the appeal where an appeal is filed, and after the expiry of the period prescribed for an appeal where no appeal is filed.

(*5*) When any suit, appeal, application or proceeding is retransferred to the court under sub-section (*4*), the said court shall proceed with the same.

[5][(*6*) When such suit, appeal, application or proceeding involves the determination of any issue entirely unconnected with the adjustment of debts, the transfer of such suit, appeal, application or proceeding under this section shall not empower the Court to determine the said issue and the determination of such issue shall be made as if the transfer of the suit, appeal, application or proceeding was not made under this section.

(*7*) When any question arises regarding the validity of the transfer or retransfer under this section of any suit, appeal, application or proceeding or if any question

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[1] This Explanation was added by Bom. 70 of 1948, s. 5.
[2] These words and figures were substituted for the words "other than revisional" *ibid.*, s. 7 (*1*).
[3] The words "on the date of the application" were deleted, *ibid.*
[4] These words, brackets and figure were substituted for the words "other than revisional", *ibid.*, s. 7 (*2*).
[5] Sub-sections (*6*) and (*7*) were added, *ibid.*, s. 7 (*3*).

arises whether any issue is or is not entirely unconnected with the adjustment of debts, the Court before which such question arises, if it is not the District Court, may refer the question for decision of the District Court. If such question arises before the District Court, the District Court itself shall decide the same. The decision of the District Court in either case shall be final.]

Taking of accounts.

20. If the Court finds the person making an application under section 4 or the person against whom an application is made under the said section 4 to be a person—

(*a*) who is a debtor, and

(*b*) the total amount of debts due from whom on the date of the application is not more than Rs. 15,000,

the Court shall proceed to take accounts in the manner hereinafter provided.

Examination of creditor and debtor.

21. In an application for the adjustment of debts if the amount of the creditor's claim is disputed, the Court shall, when taking accounts, examine both the creditor and the debtor as witnesses, unless for reasons to be recorded the Court deems it unnecessary so to do.

Mode of taking accounts.

22. Notwithstanding any agreement between the parties or the persons (if any) through whom they claim, as to allowing compound interest or setting off the profits of mortgaged property without an account in lieu of interest, or otherwise determining the manner of taking the account, and notwithstanding any statement or settlement of account, or any contract purporting to close previous dealings and create a new obligation, the Court shall inquire into the history and merits of the case and take account between the parties from the commencement of the transactions subsisting between the parties and the persons (if any) through whom they claim, out of which the claim has arisen and determine the amount due to each of the creditors at the date of the application made under section 4, according to the following rules, namely :—

(*1*) (*a*) Separate accounts of principal and interest shall be taken;

(*b*) In the account of principal there shall be debited to the debtor only such money as may from time to time have been actually received by him or on his account from the creditor, and the price of goods, if any, sold to him by the creditor;

(*c*) In the accounts of principal and interest there shall also be debited the amounts, if any, respectively due for principal (including costs) and interest under any decree or order passed by a competent court in respect of any debt :

Provided that if such decree or order does not specify the amount of principal and interest separately or does not contain any material for determining the same, two-third and one-third of the amount awarded by such decree or order shall for purposes of this clause, be deemed to be the amount awarded on account of principal (including costs) and interest, respectively.

(*2*) In the case of transactions which commenced before the 1st January 1931 the Court shall take the account up to the date of the institution of the application and in the account of interest there shall be debited to the debtor, simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties or at the rate allowed under any decree passed between the parties, or at a rate not exceeding 12 per cent. per annum, whichever is the lowest. The amount found due in respect of principal as well as in respect of interest shall, each separately, be reduced by 40 per cent. notwithstanding that a decree or order of a civil court was passed in respect of any such amount or portion thereof. The amounts so reduced shall be taken to represent the amounts due in respect of principal and interest on the date of the institution of the application.

(*3*) In the case of transactions which commenced on or after the 1st January 1931 but before the 1st January 1940 in the account of interest there shall be debited to the debtor, simple interest on the balance of principal for the time being

outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree passed between the parties, or at a rate not exceeding 9 per cent. per annum, whichever is the lowest. The amount found due on the date of the institution of the application in respect of principal as well as interest shall each separately be reduced by 30 per cent. notwithstanding that a decree or order of a civil court was passed in respect of any such amount or portion thereof. The amounts so reduced shall be taken to represent the amounts due in respect of principal and interest on the date of the institution of the application.

(*4*) In the case of transactions which commenced on or after the 1st January 1940, in the account of interest there shall be debited to the debtor simple interest on the balance of principal for the time being outstanding at the rate agreed upon between the parties, or at the rate allowed under any decree passed between the parties, or at a rate not exceeding 6 per cent. per annum, whichever is the lowest.

(*5*) All money paid by or on account of the debtor to the creditor or on his account and all profits, service or other advantages of every description received by the creditor in the course of the transactions (estimated, if necessary, at such money-value as the Court in its discretion may determine) shall be credited first in the account of interest, and when any payment is more than sufficient to discharge the balance of interest due at the rate specified in rule (2), (3) or (4), as the case may be, the residue of such payment shall be credited to the debtor in the account of principal.

(*6*) The accounts of principal and interest shall be made up to the date of the institution of the application, and the aggregate of the balance, if any, appearing due on both such accounts against the debtor on that date shall be deemed to be the amount due at that date, except when the balance appearing due on the interest-account exceeds that appearing due on the principal-account, in which case, double the latter balance shall be deemed to be the amount then due :

Provided that where transactions between the parties have commenced more than 30 years before the 30th January 1940 any settlement of accounts which has been last arrived at between the parties before the said period of 30 years and which is in writing and bears the signature of the debtor or the person through whom the liability is derived shall be accepted as binding between the parties and no inquiry into the history and merits of the case shall be made prior to the date of such settlement.

23. Where any mortgaged property is in the possession of the mortgagee or his tenants other than the mortgagor and the Court is unable to determine what profits have actually been received, it may fix a fair rent for such property and charge to the mortgagee such rent as profits for the purpose of section 22 : In certain cases rent may be charged in lieu of profits.

Provided that, if it be proved that in any year there was any suspension or remission of rent or land revenue of such land under section 84A of the Bombay Land Revenue Code, 1879, an abatement of the whole or part of such amount may be allowed for the year. Bom. V of 1879.

24. (*1*) Notwithstanding anything to the contrary contained in any law, custom, or contract, whenever it is alleged during the course of the hearing of an application made under section 4 that any transfer of land by a person whose debts are being adjusted under this Act or any other person through whom he inherited it was a transfer in the nature of a mortgage, the Court shall declare the transfer to be a mortgage, if the Court is satisfied that the circumstances connected with that transfer showed it to be in the nature of a mortgage. Power of Court to declare transfer purporting to be sale to be in nature of mortgage.

(*2*) Any agricultural labourer may make an application before the 1st August 1947 to the Court that any transfer of land by him or any other person through whom he inherited it was a transfer in the nature of a mortgage. On hearing the application, the Court shall, notwithstanding anything to the contrary contained in any law, custom, or contract, declare the transfer to be a mortgage, if it is satified that the circumstances connected with the transfer showed it to be in the nature of a mortgage. When the Court makes any such declaration, the applicant shall, notwithstanding anything contained in the definition of "debtor" in sub-section (*5*) of section 2, be deemed to be a debtor for the purposes of this Act and the Court shall proceed as if an application under section 4 had been made to it.

Provisions of section 24 not to apply to certain transfers and transferees.

25. Nothing in section 24 shall apply to—

(*i*) any transfer which has been [1][finally] adjudged to be a transfer other than a mortgage by a decree of a court of competent jurisdiction or by a Board established under section 4 of the repealed Act; and

(*ii*) any *bona fide* transferee for value without notice of the real nature of such transfer or his representative where such transferee or representative holds under a registered deed executed on or before the 15th day of February 1939.

Notice to Collector, co-operative societies, Registrar, local authorities and others.

26. (*1*) On receipt of an application for adjustment of debts, the Court shall give notice to the Collector requiring him to state to the Court within such time as may be fixed by it the amount of the debt due by the debtor to Government.

(*2*) The Court shall also give similar notice to any local authority, co-operative society or scheduled bank to which any debt may be due by the debtor and also to any person who is entitled to maintenance from the debtor, under a decree or order passed by a competent Court. In the case of any debt due to a co-operative society, the Court shall also give notice to the Registrar of Co-operative Societies or to such officer as the Registrar may nominate in this behalf.

(*3*) On receipt of such notice the Collector, the local authority, the co-operative society or the scheduled bank, or the person entitled to maintenance, as the case may be, shall, within such time as may be fixed by the Court, from time to time submit a statement to the Court showing the total amount of the debt due by the debtor as also any recurring liability against such debtor in respect of the liability for maintenance under the decree or order.

(*4*) The Collector, the co-operative society and the scheduled bank shall also furnish a statement to the Court showing the amount of remission which the Provincial Government, the co-operative society or the scheduled bank, as the case may be, is willing to give in respect of the debt.

(*5*) The portion of any debt remitted under sub-section (*4*), and unless the Court otherwise directs any debt or portion thereof in respect of which no statement is submitted under sub-section (*3*), shall be extinguished.

Court's duty to determine particulars, value, etc., of property.

27. After taking accounts under section 22 the Court shall in the manner hereinafter provided determine—

(*1*) the particulars of the property belonging to the debtor,

(*2*) the value of the said property,

(*3*) the particulars of any incumbrances on the said property, and

(*4*) the paying capacity of the debtor.

[1] This word was inserted by Bom. 70 of 1948, s. 8.

28. (*1*) If in the course of the hearing of an application made under section 4, the Court finds that the debtor has made an alienation of property or created any ncumbrance thereon with intent to defeat or delay any of his creditors, the Court shall, by notice, summon the debtor and the person in whose favour the alienation or incumbrance is made or created to appear before it on a day to be specified in the notice. Fraudulent alienations or incumbrances void.

(*2*) On the day specified in the notice or such other day to which the hearing may be adjourned the Court shall hear the parties [1][and record evidence as may be produced] and if it is satisfied that the alienation was made or the incumbrance was created with intent to defeat or delay any of the creditors of the debtor, the Court shall declare the alienation or incumbrance to be void.

(*3*) Nothing in this section shall impair the rights of an alienee or the holder of an incumbrance in good faith and for valuable consideration.

29. (*1*) Subject to the provisions of sub-sections (*2*), (*3*) and (*4*), the value of the property and other assets of a debtor for the purposes of ascertaining the paying capacity of the debtor under section 27 shall be determined by the Court in the prescribed manner. Value of property of debtor to be determined by Court in prescribed manner.

(*2*) The property or assets which are exempt from attachment in execution of a decree of a civil court under the Code of Civil Procedure, 1908, shall not be taken into account V of 1908.

(*3*) The amount of the debts mentioned in section 3 shall be deducted.

(*4*) The market value of the lands, which under any law for the time being in force, are not transferable or alienable except with the previous sanction of the Collector or the Provincial Government, shall be calculated in such manner as may be prescribed.

30. The paying capacity of the debtor shall, for the purposes of this Act, be deemed to be sixty per cent. of the value of all the property of the debtor : Paying capacity.

Provided that when any portion of such propery yields income but the market value of such portion cannot be determined, the value of such portion shall be the amount of the income capitalized at six per cent. per annum.

31. (*1*) Notwithstanding any law, custom, contract, award or decree of a court to the contrary the amounts found due under section 22 from a debtor shall be further scaled down in the manner hereinafter provided. Debts payable by debtors to be scaled down.

(*2*) If all the debts found due by a debtor after taking accounts under section 22 are unsecured, such debts shall be further scaled down *pro rata* to the paying capacity of the debtor.

(*3*) If all the debts found due by a debtor after taking accounts under section 22, are secured debts, and the total amount of such debts is more than sixty per cent. of the value of the property belonging to the debtor, such debts shall be further scaled down *pro rata* to the paying capacity of the debtor.

(*4*) If the debts found due by a debtor after taking accounts under section 22 are both secured and unsecured, and if the total amount of the secured debts is more than sixty per cent. of the value of the property on which such debts are secured,

[1] These words were inserted by Bom. 70 of 1948, s. 9.

[1][Provided that any application for the recovery of such sums shall be made to the Collector and shall be accompanied by a certificate signed by the Court.]

No recovery of amount in excess of debts scaled down.

34. The amount of debts scaled down under section 31 or further scaled down under section 33 shall for the purposes of this Act be the amount due by the debtor in respect of the said debts and the portion of the debts in excess of this amount shall be extinguished.

Debts not to be scaled down in case of collusion.

35. If the Court making an award under section 32 is at any stage of the proceeding satisfied—

(*1*) that the debtor had in collusion with any creditor furnished in such proceeding incorrect information in respect of the debt due by him to such creditor with a view to defeat the lawful claims of any other creditor, the Court may refuse to scale down any of the debts of such debtor in the manner provided in section 31 and may make an award for the full amount of the debts due from such debtor ;

(*2*) that any claim by a ceditor in such proceeding had been put forward in collusion between the debtor and such creditor with a view to defeat the lawful claims of any other creditor, the Court shall order that the debt due by the debtor to such creditor shall be extinguished and such debt shall not be recoverable.

Ex parte proceedings if any party does not appear.

36. (*1*) Notwithstanding that the person for the adjustment of whose debts an application has been made under section 4 or any of his creditors does not appear on the date fixed for the hearing of the application or on any date to which it may be adjourned, the Court shall proceed *ex parte* to hear the application, decide the preliminary issues and, if necessary, make the award, on the evidence available.

(*2*) When an application made under section 4 is heard and disposed of *ex parte* under sub-section (*1*), the decision on the preliminary issues or the award shall not, except for sufficient reasons, be reopened merely on the ground that any of the parties thereto did not appear at the hearing.

Re-opening of award and re-adjustment of debts.

37. If, after an award is made under section 32, the Court finds on an application made to it by any party or otherwise, that the debtor has other property which was not disclosed to the Court when the award was made, or that any property included in the award did not belong to the debtor, the Court may, notwithstanding anything contained in this Act, reopen the award and readjust the debts in accordance with the provisions of this Act :

Provided that where the Court is satisfied that the non-disclosure of such property was in consequence of any fraud on the part of the debtor, the Court in revising the award shall not give the debtor the benefit of section 31.

Award to be registered : how executed.

38. [2][(*1*) Every award made under this Act shall, on payment of the court-fee payable under section 44, be registered in the manner provided in Chapter IIA.]

(*2*) The court-fee on the award shall be paid by the party ordered by the Court to bear the costs :

Provided that any creditor who is not ordered to bear the costs may pay such court-fee. Such creditor shall be entitled to recover the amount of court-fee paid by him from the debtor with the first instalment payable to him under the award :

Provided further that no court-fee shall be payable by a co-operative society.

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[1] These words were added, by Bom. 70 of 1948, s. 10(*4*).

[2] This sub-section was substituted for the original, *ibid.*, s 11(*1*).

the secured debts shall be further scaled down *pro rata* to sixty per cent. of the value of the property on which such debts are secured and the unsecured debts shall be further scaled down *pro rata* to sixty per cent. of the value of the other property belonging to the debtor over which no debts are secured.

Award.

32. (*1*) After determining the amount of debts scaled down in the manner provided in section 31 the Court shall, save as otherwise provided in section 33, make an award.

(*2*) The award shall be in the prescribed form and shall be drawn up subject to the following provisions :—

(*i*) the amount of the secured debts scaled down shall be charged on the properties on which they may have been secured ;

(*ii*) subject to clause (*i*) the amount of unsecured debts shall be charged on all the properties of the debtor ;

(*iii*) in fixing the priority in which debts shall be paid the following order shall be followed :—

(*a*) debts due to Government, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's land revenue,

(*b*) debts due to local authorities, which are charged on the immovable property belonging to the debtor or which are recoverable as the current year's dues,

(*c*) loans given by resource societies or by persons authorized to advance loans under section 78 of the repealed Act or section 54 of this Act for the financing of crops under the repealed Act or for seasonal finance under this Act after the 30th January 1940 and other loans given for financing crops after the 1st January 1939 and before the 30th January 1940,

(*d*) secured debts in order of priority,

(*e*) debts due to Government, local authorities and other bodies including co-operative societies, and recoverable as arrears of land revenue,

(*f*) other debts due to co-operative societies,

(*g*) unsecured debts :

Provided that in the case of unsecured debts they shall be paid *pro rata*.;

(*iv*) the total annual instalments shall not exceed twelve :

Provided that in fixing the amount of instalments in which the debts shall be paid the Court shall ascertain the net annual income of the debtor and the annual instalments payable by the debtor shall not exceed his net annual income.

Explanation.—For the purposes of this clause, the net annual income of the debtor shall mean the balance of his annual income after deducting (*i*) such sum as may be considered necessary for the payment of the liability, if any, imposed on the debtor under a decree or order for maintenance passed by a competent Court, (*ii*) such sum as may be considered necessary for the maintenance of the debtor and his dependants, and (*iii*) the sum required by the debtor to pay the assessment and taxes in respect of the current year to Government and to local authorities and to pay off loans borrowed for the purpose of the financing of crops under the repealed Act or seasonal finance under this Act ;

(*v*) the Court may pass an order for the delivery of possession of any property notwithstanding any law or contract to the contrary ;

(*vi*) the rate of interest shall not exceed 6 per cent. per annum or such lessrate as may be notified in this behalf by the Provincial Government or the rate agreed upon between the parties when the debt was originally incurred or the rate allowed by the decree in respect of such debt, whichever is the lowest

33. (*1*) Where the amount of debts of the debtor as scaled down under section 31 by it exceeds half the value of the debtor's immovable property as determined by it, the Court shall intimate to the creditors the amount of the said debts of the debtor and the said value of the debtor's immovable property and call upon them to state in writing within a specified period not exceeding one month whether they agree to the further scaling down of the said debts so as to reduce them to a sum not exceeding half the said value of the immovable property of the debtor. If [1][a majority in number and three-fourth in value of all the creditors agree to the further scaling down of the debts, the Court shall make an order directing the debtor to pay the amount of such debts so agreed upon within a period of one month from the date of the order.

Court to prepare scheme for adjustment of debts through Provincial Land Mortgage Bank.

(*2*) Unless the debtor pays the amount of such debts within a period of one month from the date of the order or such extended period not exceeding one month as the Court may allow and produces the creditors' receipt therefor, the Court shall make an award in the prescribed form directing that the Primary Land Mortgage Bank situated in the local area or if there is no such Primary Land Mortgage Bank in that local area, the Bombay Provincial Co-operative Land Mortgage Bank registered under the Bombay Co-operative Societies Act, 1925, shall pay the creditors in cash the debt as finally scaled down or, if the creditors so desire, in bonds issued by the Bombay Provincial Co-operative Land Mortgage Bank, such bonds being guaranteed by the Provincial Government, for such amount in full satisfaction of all the debts due to them from the debtor. The Court shall further direct that such amount shall be charged on all the immovable property of the debtor.

Bom. VII of 1925.

[2][(*2A*) (*a*) Where any award made under sub-section (*1*) of section 55 of the repealed Act or under sub-section (*2*) of this section has either before or after the Bombay Agricultural Debtors Relief (Amendment) Act, 1948, has come into force been wrongly forwarded for payment to the creditors of the debt as finally scaled down to any Primary Land Mortgage Bank which under its by-laws was not competent to make payment to the creditors, it shall be lawful to the Court, notwithstanding anything contained in this Act, on application made by the creditor concerned and after holding such inquiry as it deems fit, to direct that the said award be forwarded to the Primary Land Mortgage Bank for the local area concerned competent to make the payment or to the Bombay Provincial Co-operative Land Mortgage Bank, as the case may be, for making payment in accordance with this section.

Bom. LXX of 1948.

(*b*) The award directed to be forwarded under clause (*a*) shall not be deemed to have been wrongly forwarded only on the ground that it was originally forwarded to a Primary Land Mortgage Bank not competent to make the payment, and shall, notwithstanding anything contained in this Act, be deemed to have been duly forwarded under sub-section (*2*) and shall be executed in accordance with the provisions of this Act.]

[3][(*3*) The Bank shall be entitled to recover the amount due to it from the debtor in such annual instalments as may be fixed by the Court. The amount of principal shall carry and be recoverable together with interest at such rate not exceeding six per cent. per annum as the Provincial Government may notify in this behalf in the *Official Gazette*, from time to time.]

(*4*) All sums due under an award made in favour of the bank under this section shall be recoverable as arrears of land revenue:

[1] These words were substituted for the words "all the creditors" by Bom. 70 of 1948, s. 10(*1*).
[2] Sub-section (*2A*) was inserted, *ibid.*, s. 10 (*2*).
[3] This sub-section was substituted for the original, *ibid.*, s. 10(*3*).

(*3*) The award so registered shall be executed as follows :—

(*i*) If the debtor makes default in the payment of any instalment due under the award to any creditor such creditor may apply in the prescribed form to the Court for execution of the award.

(*ii*) If the Court on receipt of such application is satisfied that the debtor has made default in the payment of the instalment the Court shall transfer the award for execution to the Collector and thereupon the Collector shall recover the amount of the instalment from the debtor as arrears fo land revenue :

Provided that nothing in [1][clauses (*i*) and (*ii*)] shall affect the right of Government, a local authority or a co-operative society to have recourse to any mode of recovery allowable by any law for the time being in force.

[2][(*iii*) If the Court has passed an order for the delivery of possession of any property under clause (*v*) of sub-section (*2*) of section 32 such order shall on the application be executed by the Court as if it were a decree passed by it.]

Postponement of payment of instalment in case of remissions, etc.

39. (*1*) Whenever from any cause the payment of one-half or more of the land revenue payable to the Provincial Government is suspended or remitted the payment of the whole of the instalment due for that year and the full amount of the instalment due for each subsequent year under an award made under section 8, 9, 32 or 33 shall be postponed for one year.

(*2*) Whenever from any cause the payment of any portion less than one-half of the land revenue payable to the Provincial Government is suspended or remitted one-half of the amount of the instalment for that year and the full amount of the instalment due for each subsequent year under an award made under section 8, 9, 32 or 33 shall be postponed for one year.

No alienation by debtor before discharge of debts valid.

40. Notwithstanding any law or contract but subject to the provisions of [3][sections 41 and 53], no alienation of any property belonging to a debtor who is a party to any proceedings or award under this Act, made by him before all his debts are discharged shall be valid, except with the previous sanction of the [4][Court.]

Court may order sale of debtor's property in liquidation of his debt.

41. If the Court or the Court hearing an appeal against the award is at any time satisfied that it is in the interest of a debtor that any part of his property should be sold in liquidation of his debt or part thereof, such Court may permit the debtor to sell such part of the property for such purpose within a specified period. If the debtor fails so to sell it, such Court may order an officer of the Court to sell the same. The property ordered to be sold under this section shall be sold by such officer in the manner prescribed :

Provided that the part of the property ordered to be sold under this section shall not exceed the part liable to be sold under sub-section (*2*) of section 47.

Pleaders, etc., excluded from appearance.

42. Except in proceedings under sections 24 and 28 no pleader shall be entitled to appear on behalf of any party in any proceeding before the Court or the Court in appeal under this Act :

[5][Provided that the Court or the Court in appeal in the interest of justice for reasons to be recorded in writing may allow the parties to be represented at their own cost by a pleader :]

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[1] These words, brackets and figure were substituted for "this sub-section" by Bom. 70 of 1948, s. 11 (*2*).
[2] This clause was added, *ibid.*
[3] This portion was substituted for the word and figures " section 41 ", *ibid.*, s. 12 (*1*).
[4] This word was substituted for the words " Provincial Government ", *ibid.*, s. 12 (*2*).
[5] This proviso was substituted for the original, *ibid.*, s. 13 (*1*).

Provided further that pleader's fees shall not be allowed as part of the costs for the appearance of a pleader in any proceedings under this Act:

[1][Provided also that if any officer of Government is appointed or declared by a competent court or is authorised under any law for the time being in force as a guardian, administrator or manager of the property of a person who is under a legal disability or is incompetent or unable to manage or to act, such officer shall be entitled to appear through a representative authorised by him in writing in this behalf in any proceedings before the Court or the Court in appeal. Such representative may also submit any application and otherwise act on behalf of the officer in any such proceedings.]

Appeals.

43. Notwithstanding anything contained in any other law [2]* *

(*1*) an appeal shall lie—

(*i*) from every order passed under sub-section (*3*) of section 8;

(*ii*) from every order passed under section 17;

(*iii*) from every order passed under section 24;

(*iv*) from every order passed under section 28;

(*v*) from every order passed under sub-section (*2*) of section 36;

(*vi*) from every award made under this Act other than an award made in terms of a settlement under sub-section (*4*) of section 8 or under section 9 or an award made under section 33 before the making of which the creditors' agreement has been obtained under sub-section (*1*) thereof or an award before the making of which neither the debtor nor any of the creditors produced evidence to enable the Court to determine the amount of debt due from the debtor;

[3][(*vii*) from an order made under section 47, provided that no appeal shall lie from such order except on the ground that the insolvent has failed to disclose all the material facts relating to his assets and liabilities;]

[4][(*2*) an appeal from the Court shall lie to the District Court, and the appeal shall be made within sixty days from the date of the coming into force of the Bombay Agricultural Debtors Relief (Amendment) Act, 1948, or from the date of the order or award, as the case may be, whichever is later. In computing the period of sixty days the provisions contained in sections 4, 5 and 12 of the Indian Limitation Act, 1908, shall, so far as may be, apply;] Bom LXX of 1948 IX of 1908.

(*3*) no second appeal shall be against any decision, order or award of the court under this Act.

Power of District Judge to refer for disposal certain appeals to Assistant Judge or Civil Judge empowered to hear appeals.

[5][**43A.** A District Judge may refer for disposal any appeal filed under the last preceding section to an Assistant Judge, or a Civil Judge invested with power to hear appeals under section 27 of the Bombay Civil Courts Act, 1869.] XIV of 1869.

Court-fees.

44. (*1*) Notwithstanding anything contained in the Court-fees Act, 1870, court-fees payable in respect of proceedings under this Act shall be at the following rates:— VII of 1870.

(*i*) on an application under sub-section (*1*) of section 4 or of section 8 or on an award under sub-section (*4*) of section 8 or section 9—Re. 1;

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[1] This proviso was added, by Bom. 70 of 1948, s. 13 (*2*).

[2] The words and figures "and save as otherwise provided in section 51" were deleted, *ibid.*, 14 (*1*).

[3] This sub-clause was added, *ibid.*, s. 14 (*2*).

[4] This clause was substituted for the original, *ibid.*, s. 14 (3).

[5] This section was inserted, *ibid.*, s. 15.

(*ii*) on an award other than an award specified in clause (*i*)—Re. 1 for every hundred rupees, or part thereof, of the amount of the award, subject to a maximum of Rs. 50 ;

(*iii*) on an appeal against a decision of the Court under sub-section (*3*) of section 8 or sub-section (*2*) of section 17—Rs. 2 ;

(*iv*) on an appeal other than an appeal specified in clause (*iii*)—Re. 1 for every hundred rupees, or part thereof, of [1][the amount involved] subject to a maximum of Rs. 50.

(*2*) Notwithstanding anything contained in any law, the court-fees payable in respect of proceedings under this Act shall be a first charge on the property of the party ordered to pay the costs and shall be recoverable in such manner as may be prescribed.

Notice how served.

45. Any notice required to be served under this Act shall be served in the manner provided in the Code of Civil Procedure, 1908 ; and when rules are made in that behalf in such manner as may be prescribed.

V of 1908.

Provisions of Civil Procedure Code to apply to proceedings.

46. Save as otherwise expressly provided in this Act, the provisions of the Code of Civil Procedure, 1908, shall apply to all proceedings under this Chapter.

V of 1908.

[2][CHAPTER IIA.

Registration of Awards.

Debt Adjustment Register and Index.

46A. In all registration offices a book called 'Register of Debt Adjustment Awards' and an Index relating thereto shall be kept. The book and index shall be kept in such form and shall contain such particulars as the Provincial Government may prescribe.

Court to send awards and memorandums to Registrars and Sub-Registrars.

46B. It shall be the duty of the Court making an award to send to the Sub-Registrar of the sub-district in which the property which is the subject matter of the award or any part of such property is situated, or if there is no Sub-Registrar for the area to the Registrar of the District in which the property or its part is situate a certified copy of the award after court-fee has been paid thereon in accordance with the provisions of section 44 together with a memorandum containing such particulars as the Provincial Government may prescribe.

Notice of appeals to Registrars.

46C. If a party files an appeal against an award under section 43, it shall be the duty of the court in which the appeal is filed to send to the Sub-Registrar of the sub-district in which the court is situated, or if there is no Sub-Registrar, to the Registrar of the District a notice regarding the institution of the appeal.

Registration.

46D. After the expiry of the period provided for an appeal against an award, if no appeal is filed, or if an appeal is filed after the disposal of the said appeal, the Sub-Registrar or the Registrar, as the case may be, shall register the award in the Register of Debt Adjustment Awards and shall also enter particulars in the Index kept under section 46A.

Registration of awards under repealed Act.

46E. All awards made under the repealed Act whether registered before the 27th day of May 1947 under the provisions of the said Act or not shall be registered under this Chapter :

Provided that notwithstanding anything contained in section 44 no additional court-fee shall be paid on such awards under the said section.

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[1] These words were substituted for the words "the amount of the award" by Bom. 70 of 1948, s. 16.
[2] Chapter II-A was inserted, *ibid.*, s. 17.

Notice of awards.

46F. Any person acquiring any property or any part of, or any share or interest in, the property of a debtor for adjustment of whose debts an award has been made shall be deemed to have notice of the award as from the date of the registration under this Chapter.

Application of Indian Registration Act.

46G. Except as herein provided, the provisions of the Indian Registration Act, 1908, shall *mutatis mutandis* apply to the registration of awards, and the words and expressions used in this Chapter but not defined in this Act shall have the meanings assigned to them in the Indian Registration Act, 1908.] XVI of 1908. XVI of 1908.

CHAPTER III.

INSOLVENCY PROCEEDINGS.

Court to declare debtor insolvent in certain circumstances.

47. (*1*) If at any stage of the proceedings under Chapter II the Court finds that the income of the debtor and his moveable property are not sufficient to allow his debts to be liquidated by annual instalments not exceeding twelve in number, the Court shall make an order adjudicating the debtor an insolvent.

(*2*) After the debtor has been adjudicated an insolvent, the Court shall direct that such portion of the property of the debtor, liable to attachment and sale under section 60 of the Code of Civil Procedure, 1908, excluding such portion thereof as the Provincial Government shall from time to time notify in the *Official Gazette* as the minimum necessary for the maintenance of the debtor and his dependants, as may be required to liquidate all the debts of the debtor, shall immediately be sold free of all incumbrances in liquidation of all debts outstanding against such debtor. V of 1908.

Procedure in insolvency proceedings.

48. The order of adjudication made under section 47 shall have the force of an order made by a competent court in the exercise of its powers under section 27 of the Provincial Insolvency Act, 1920. V of 1920.

Distribution of assets of insolvent.

49. The proceeds realised by the sale of the property of the insolvent under section 47 shall be distributed in the order of priority specified in clause (*iii*) of sub-section (*2*) of section 32.

Bar to application in insolvency in other courts.

50. No application or proceeding in regard to the insolvency of a debtor shall lie in or shall be dealt with by any other Court.

Appeals barred.

[1][**51.** Save as provided by sub-clause (*vii*) of clause (1) of section 43, no appeal shall lie from any order passed under this Chapter.]

CHAPTER IV.

MISCELLANEOUS.

Bar of civil suits or proceedings.

[2][**51A.** Except as otherwise provided by this Act and notwithstanding anything contained in any other law, no Civil Court shall entertain or proceed with any suit or proceeding in respect of—

(*i*) any matter pending before the Court under this Act, or

(*ii*) the validity of any procedure or the legality of any award, order or decision of the Board established under section 4 of the repealed Act or of the Court, or

(*iii*) the recovery of any debt made payable under such award.]

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[1] This section was substituted for the original by Bom. 70 of 1948, s. 18.

[2] This section was inserted, of 1948, *ibid.*, s. 19.

52. In computing the period of limitation for the institution of any suit or proceeding in respect of any debt due from any person who is held not to be a debtor by the Court or the Court in appeal [1][or an application relating to which has been dismissed by the Court or the Court in appeal, the period during which the proceedings in respect of such debt were prosecuted before the Court or the Court in appeal shall be excluded.] Period of proceeding before Courts under this Act to be excluded.

53. (*1*) No person, who is [2][or was] a party to any proceedings or award under this Act and who is indebted to a resource society or any person authorised to advance loans under section 78 of the repealed Act or section 54 of this Act on account of any loan advanced to him for the financing of crops under the repealed Act or seasonal finance under this Act, shall hypothecate or sell the standing crops or the produce of his land without the previous permission of the society or of the person, as the case may be, until such loan has been repaid in full. Alienation of standing crops, etc., before repaymen . of loan prohibited.

(*2*) Any person who hypothecates or sells the standing crop or the produce of his land in contravention of sub-section (*1*), shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to Rs. 500.

(*3*) No criminal Court shall take cognizance of any offence under this section except on the complaint in writing of the Court before which the proceedings were held or which made the award.

54. (*1*) The Provincial Government [3][or any officer empowered by it] may by notification in the *Official Gazette* authorise in any local area any person to advance loans to debtors who are parties to any proceedings under this Act or in respect of whose debts an adjustment has been made under this Act. Power of Provincial Government to authorise any person to advance loans to debtors.

(*2*) Such authority shall be granted on such conditions as may be pescribed.

55. (*1*) The Provincial Government may by notification in the *Official Gazette* and subject to the condition of previous publication from time to time, make rules for carrying into effect the purposes of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*a*) the purposes for which loans may be advanced under clause (13) of section 2 ;

(*b*) the form of application under sub-section (*2*) of section 4 and the manner of signing, verification and presentation thereof ;

(*c*) the form of application and the manner of signing and verification thereof under sub-section (*2*) and the manner of giving notice under sub-section (*3*) of section 8 ;

(*d*) the manner of giving notice and publication of general notice and the form of statement to be submitted under section 14 ;

(*e*) the inventories of property, lists of creditors and of debtors and of debts due to and from a debtor, the examination in respect of property or creditors, the time at which the debtors shall attend before the Court and do other things in relation to property under sub-section (*1*) of section 16, and the production of books of account, the examination to be submitted to, and the information to be supplied by a creditor in respect of the debt due to him by the debtor under sub-section (*2*) of section 16 ;

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[1] This portion was substituted for the words " the period during which the proceedings were pending before the Court in respect of such debt shall be excluded " by Bom. 70 of 1948, s. 20.

[2] These words were inserted, *ibid.*, s. 21.

[3] These words were inserted, *ibid.*, s. 22.

(*f*) the manner of determining the value of property and other assets under sub-section (*1*), and the manner of calculating the market value of the lands under sub-section (*4*), of section 29 ;

(*g*) the form of award under sub-section (*2*) of section 32 and sub-section (*2*) of section 33 ;

(*h*) the form of application under clause (*i*) of sub-section (*3*) of section 38 ;

(*i*) the manner in which property may be sold under section 41 ;

(*j*) the manner of recovery of Court-fees under sub-section (*2*) of section 44 ;

(*k*) the manner of service of notice under section 45 ;

[1][(*ka*) the form of and the particulars to be included in the Register of Debt Adjustment Awards and the Index kept under section 46A ;

(*kb*) the particulars to be included in the memorandum under section 46B ;]

(*l*) the conditions on which authority to grant loans shall be granted under sub-section (*2*) of section 54.

Repeal of Act XVII of 1879 and Bom. XXVIII of 1939.

56. (*1*) [2][Notwithstanding the repeal of the Dekkhan Agriculturists' Relief Act, 1879, by the Bombay Agricultural Debtors Relief Act, 1939, the first mentioned Act shall, in so far as it applies to transactions and proceedings to which this Act does not not apply, be deemed to have been re-enacted with effect from the date of the coming into operation of this Act (hereinafter in this section referred to as the said date) and shall continue in force for a period of three years from the said date : XVII of 1879. Bom. XXVIII of 1939.

Provided that any proceeding in or out of any suit instituted before the expiry of the said three years shall be continued and disposed of after the expiry of the said period, as if the Dekkhan Agriculturists' Relief Act, 1879, had continued in force after the expiry of the said period :] XVII of 1879.

[3][Provided also that] nothing in this sub-section shall be deemed to affect, in regard to persons who are debtors and in respect of whose debts an application under section 4 of this Act can be made, anything done in the course of any proceeding pending in any Court on the said date and any such proceeding may be continued, in so far as the continuance is not inconsistent with the provisions of this Act :

Provided further that nothing in this sub-section shall in any way affect the transfer under section 19 of this Act of any suit or proceeding to which such debtor was a party.

(*2*) The Bombay Agricultural Debtors Relief Act, 1939, is repealed. Bom. XXVIII of 1939.

All Boards established under section 4 of the repealed Act shall be dissolved :

[4][Provided that—

(*a*) all proceedings pending before any such Board at the date when this Act comes into force shall be continued and disposed of by the Court under this Act as if an application under section 4 had been made to the Court in respect therefor ;

(*b*) all awards made, confirmed or modified under the repealed Act shall be deemed to have been made, confirmed or modified under this Act as if this Act was in force at the date when the said awards were made, confirmed or modified, as the case may be ;

(*c*) all appeals pending before any Court under the repealed Act against the decision, order or award of such Board shall be continued and disposed of as if the said appeals were filed under the provisions of this Act ; and

(*d*) all appeals which could have been filed under the repealed Act against any decision, order or award of such Board but which could not be filed only by reason of the fact that the said Act was repealed by this Act shall when filed before a competent court be deemed to have been filed under the provisions of this Act and shall be disposed of accordingly.]

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[1] Clauses (ka) and (kb) were inserted by Bom. 70 of 1948, s. 23.

[2] This portion was substituted for the original, *ibid.*, s. 24(*1*)(*a*).

[3] These words were substituted for the words " Provided that ", *ibid.*, s 24(*1*) (*b*).

[4] This proviso was substituted for the original, *ibid.*, s. 24 (*2*).

THE BOMBAY MONEY-LENDERS ACT, 1946.

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BOMBAY ACT No. XXXI OF 1947.[1]

[THE BOMBAY MONEY-LENDERS ACT, 1946.]

[*31st May 1947.*]

Amended by Bom. 58 of 1948.

An Act to regulate the transactions of money-lending in the Province of Bombay.

WHEREAS it is expedient to make better provision for the regulation and control of transactions of money-lending in the Province of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Money-lenders Act, 1946.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

VII of 1913.

(*1*) "bank" means a banking company as defined in section 277F of the Indian Companies Act, 1913, whether incorporated in or outside British India;

(*2*) "business of money-lending" means the business of advancing loans whether or not in connection with or in addition to any other business;

(*3*) "capital" means a sum of money which a money-lender invests in the business of money-lending;

VII of 1913.

(*4*) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act of Parliament, or by Royal Charter or Letters Patent, or by an Act of the Legislature of a British Possession;

Bom. VII of 1925. II of 1912.

(*5*) "co-operative society" means a society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925, or the Co-operative Societies Act, 1912, or any Act of any other Provincial Legislature relating to co-operative societies;

(*6*) "interest" includes any sum, by whatsoever name called, in excess of the principal paid or payable to a money-lender in consideration of or otherwise in respect of a loan, but does not include any sum lawfully charged by a money-lender for or on account of costs, charges or expenses in accordance with the provisions of this Act, or any other law for the time being in force;

(*7*) "licence" means a licence granted under this Act;

(*8*) "licence fee" means the fee payable in respect of a licence;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 97; for Report of the Select Committee, *see, ibid.*, p. 239; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XII.

(*9*) "loan" means an advance at interest by way of credit, whether of money or in kind, but does not include—

(*a*) a deposit of money or other property in a Government Post Office Bank or in any other bank or in a company or with a co-operative society;

(*b*) a loan to, or by, or a deposit with any society or association registered under the Societies Registration Act, 1860, or any other enactment relating to public, religious or charitable object; XXI of 1860.

(*c*) a loan advanced by Government or by any local authority authorised by Government;

(*d*) a loan advanced by a co-operatve society;

[1][(*d1*) an advance made to a subscriber to, or a depositor in, a Provident Fund from the amount standing to his credit in the fund in accordance with the rules of the fund;

(*d2*) a loan to or by an insurance company as defined in the Insurance Act, 1938;] IV of 1938.

(*e*) a loan to, or by a scheduled bank;

(*f*) an advance made on the basis of a negotiable instrument as defined in the Negotiable Instruments Act, 1881, other than a promissory note; XXVI of 1881.

(*g*) except for the purposes of sections 23 and 25, a loan to a trader;

(*10*) "money-lender" means—

(*i*) an individual, or

(*ii*) an undivided Hindu family, or

(*iii*) a bank, or

[2][(*iiia*) a company, or]

(*iv*) an unincorporated body of individuals,

who or which—

(*a*) carries on the business of money-lending in the Province; or

(*b*) has his or its principal place of such business in the Province;

(*11*) "prescribed" means prescribed by rules made under this Act;

(*12*) "principal" means in relation to a loan the amount actually advanced to the debtor;

[3][(*12A*) "Provident Fund" means a Provident Fund as defined in the Provident Funds Act, 1925, and includes a Government Provident Fund and a Railway Provident Fund as defined in the said Act;] XIX of 1925.

(*13*) "Province" means the Province of Bombay;

(*13A*) "recognised language" means in Greater Bombay Marathi or Gujarati and elsewhere the language of the Court;

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[1] These sub-clauses were inserted by Bom. 58 of 1948, s. 2 (*1*) and (*iii*).
[2] This paragraph was inserted, *ibid.*, s. 2 (*ii*).
[3] This clause was inserted, *ibid.*, s. 2 (*iii*).

(*14*) "register" means a register of money-lenders maintained under section 4;

(*15*) "rules" means rules made under this Act;

II of 1934. (*16*) "scheduled bank" means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934;

(*17*) "suit to which this Act applies" means any suit or proceeding—

(*a*) for the recovery of a loan made after the date on which this Act comes into force;

(*b*) for the enforcement of any security taken, or any agreement, made after the date on which this Act comes into force in respect of any loan made either before or after the said date; or

(*c*) for the redemption of any security given after the date on which this Act comes into force in respect of any loan made either before or after the said date;

(*18*) "trader" means a person who in the regular course of business buys and sells goods or other property, whether moveable or immovable, and includes—

a wholesale or retail merchant,
a commission agent,
a broker,
a manufacturer,
a contractor,
a factory owner,

but does not include an artisan or a person who sells his agricultural produce or cattle or buys agricultural produce or cattle for his use.

Explanation.—For the purposes of this clause an "artisan" means a person who does not employ more than ten workers in a manufacturing process on any one day of the twelve months immediately preceding.

Appointment of Registrar General, Registrars and Assistant Registrars.

3. The Provincial Government may, by notification in the Official Gazette, appoint such persons, whether public officers or not, as it thinks proper, to be a Registrar General, Registrars and Assistant Registrars of money-lenders for the purposes of this Act and may define the areas within which each such officer shall exercise his powers and perform his duties.

Register of money-lenders.

4. Every Assistant Registrar shall maintain for the area in his jurisdiction a register of money-lenders in such form as may be prescribed.

Money-lender not to carry on business of money-lending except for area under licence and except in accordance with terms of licence

5. No money-lender shall carry on the business of money-lending except in the area for which he has been granted a licence and except in accordance with the terms and conditions of such licence.

Application for licence

6. (*1*) Every money-lender shall annually before such date as may be prescribed make an application in the prescribed form for the grant of a licence to the Assistant Registrar of the area [1][within the limits of which, the place where he intends to carry on the business of money-lending or if he intends to carry on such business at more than one place in the area, the principal place of such business is situated.] Such application shall contain the following particulars, namely :—

(*a*) the name in which such money-lender intends to carry on business and the name of the person proposed to be responsible for the management of the business ;

(*b*) if the application is by or on behalf of—

(*i*) an individual, the name and address of such individual,

(*ii*) an undivided Hindu family, the names and addresses of the manager and the adult coparceners of such family,

(*iii*) [2][a bank or company], the names and addresses of the directors, manager or principal officer managing it,

(*iv*) an unincorporated body of individuals, the names and addresses of such individuals ;

(*c*) the area and the place or principal place of the business of money-lending in the Province ;

(*d*) the name of any other place in the Province where the business of money-lending is carried on or intended to be carried on ;

(*e*) whether the person signing the application has himself, or any of the adult coparceners of an undivided Hindu family, or any director, manager or principal officer of the [2][Bank or company] or any member of the unincorporated body on behalf of which such application has been made, as the case may be, has carried on the business of money-lending in the Province in the year ending on the 31st day of March immediately preceding the date of the application either individually, or in partnership, or jointly with any other coparcener or any other person and whether in the same or any other name ;

(*f*) the total amount of the capital which such person intends to invest in the business of money-lending in the year for which the application has been made;

[3][(*g*) if the places at which the business of money-lending is to be carried on are more than one, the names of persons who shall be in the management of the business at each such place.]

(*2*) The application shall be in writing and shall be signed—

(*a*) (*i*) if the application is made by an individual, by the individual ;

(*ii*) if the application is made on behalf of an undivided Hindu family, by the manager [[4]* * *] of such family ;

(*iii*) if the application is made by a [5][bank, company] or unincorporated body, by the managing director or any other person having control of its principal place of business in British India or of its place of business in the area in which it intends to carry on the business ; or

(*b*) by an agent authorised in this behalf by a power of attorney by the individual money-lender himself, or the family, or the [5][bank, company] or the unincorporated body, as the case may be.

(*3*) The application shall also contain such other particulars as may be prescribed.

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[1] This portion was substituted for "within the limits of which he intends to carry on the business of money-lending" by Bom. 58 of 1948, s. 3 (*i*).

[2] These words were substituted for the original, *ibid.*, s. 3 (*i*) (*b*) and (*c*).

[3] New clause (*g*) was inserted, *ibid.*, s. 3 (*i*) (*d*).

[4] The words "and the adult coparceners" were deleted, *ibid.*, s. 3 (*ii*) (*a*).

[5] These words were substituted for the word "bank" *ibid.*, s. 3 (*ii*) (*b*).

[1][(*4*) The application shall be accompanied by a licence fee at the following rates :—

(*a*) If the place at which the business of money-lending is to be carried on is not more than one.	Rs. 5.
(*b*) If the business of money-lending is to be carried on at more than one place within the limits of the area of the Registrar.	Rs. 5 for the licence for the principal place of business and Rs. 2 for the licence for each of the other places in the area :

Provided that where an application is made after the expiry of the period prescribed by rules in respect of such application, it shall be accompanied by a licence fee at double the rates specified above.

(*5*) The fee payable under this section shall be paid in the manner prescribed and shall not be refunded, notwithstanding the fact that the grant of the licence is refused or the application is withdrawn.]

[2][7. (*1*)] On the receipt of an application under section 6 and after making a summary inquiry in accordance with the prescribed procedure, the Assistant Registrar shall forward the application, together with his report, to the Registrar. The Registrar may after making such further inquiry, if any, as he deems fit, grant the applicant a licence in such form and subject to such conditions as may be prescribed, [3][* *] and direct the Assistant Registrar to enter the name of such applicant in the register maintained by him under section 4. Grant of licence and entry in register.

[4][If the application is in respect of more than one place of business in the area under the jurisdiction of the Registrar, a separate licence in respect of each such place shall be granted in the name of the applicant and the person responsible for the management of the business at such place.]

[4][(*2*) If the application also contains a request for the grant of a licence to carry on the business of money-lending at any place within the Province, but at a place outside the jurisdiction of the Registrar who granted the licence in respect of the principal place of business of the money-lender, the Registrar shall forward copies of the application and of the licence granted to the Registrar having jurisdiction who may grant a licence on payment of the licence fee provided for in section 6 without making any inquiry in respect of the application.]

8. (*1*) The grant of a licence shall not be refused except on any of the following grounds :— Refusal of issue of licence.

(*a*) that the applicant, or any person responsible or proposed to be responsible for the management of his business as a money-lender is disqualified from holding a licence ;

(*b*) that the applicant has not complied with the provisions of this Act or the rules in respect of an application for the grant of a licence ;

(*c*) that the applicant has made wilful default in complying with or knowingly acted in contravention of any requirement of this Act ;

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[1] New sub-sections (*4*) and (*5*) were added by Bom. 58 of 1948, s. 3 (*iii*).

[2] Section 7 was renumbered as 7 (*1*), *ibid.*, s. 4 (*1*).

[3] The words "on payment in the prescribed manner of a licence fee of Rs. 5" were deleted, *ibid.*, s. 4 (*1*).

[4] This portion and sub-section (*2*) were added, *ibid.*

(*d*) that satisfactory evidence has been produced that the applicant or any person responsible or proposed to be responsible for the management of his business of money-lending has—

(*i*) knowingly participated in or connived at any fraud or dishonesty in the conduct of or in connection with the business of money-lending, or

(*ii*) been found guilty of an offence under Chapter XVII or sections 465, 477 or 477-A of Chapter XVIII of the Indian Penal Code. XLV of 1860.

(*2*) The Registrar shall, before refusing a licence under sub-section (*1*), record the evidence adduced before him and his reasons for such refusal.

(*3*) An appeal shall lie from an order of the Registrar refusing a licence under sub-section (*1*) to the Registrar General, whose decision shall be final.

Registrar's power to cancel licences.

[1][8A. (*1*) The Registrar, may during the term of any licence, cancel the same by an order in writing on the ground that the person to whom it was granted has been guilty of any act or conduct for which he might under section 8 have refused him the grant of the licence and which act or conduct was not brought to his notice at the time of the grant.

(*2*) Before cancelling a licence under sub-section (*1*) the Registrar shall give notice in writing to the licensee and may hold such inquiry as may be necessary.

(*3*) An appeal shall lie from an order of the Registrar cancelling a licence under sub-section (*1*) to the Registrar General whose decision shall be final.]

Term of licence.

9. A licence shall be valid from the date on which it is granted to the 31st day of July following.

Stay of suits by money-lenders not holding licence.

10. (*1*) After the expiry of six months from the date on which this Act comes into force, no Court shall pass a decree in favour of a money-lender in any suit filed by a money-lender to which this Act applies unless the Court is satisfied that at the time when the loan or any part thereof to which the suit relates was advanced, the money-lender held a valid licence.

(*2*) If during the trial of any such suit, the Court finds that the money-lender had not held such licence, the Court may, on the application of the money-lender, stay the hearing of the suit and require him to produce within a period of three months a licence on payment to the Registrar of all the arrears of the licence fees payable by him under this Act for the period commencing from the date on which he started the business of money-lending or the expiry of six months from the date on which this Act comes into force, whichever is later, together with such penalty, not exceeding Rs. 500, as the Court may direct:

Provided that when the Court is satisfied that the failure of the money-lender to obtain a licence was due to any reasonable cause, the Court may direct that no penalty as aforesaid or part of such penalty shall be paid by the money-lender.

(*3*) The Court may, on sufficient cause being shown, from time to time extend the period during which the money-lender shall be required to produce a licence.

(*4*) If the money-lender fails to produce the licence required under sub-section (*2*) within the period specified therein or within such period as may be extended under sub-section (*3*), the Court shall dismiss the suit. If the money-lender produces such licence within the aforesaid period, the Court shall proceed to hear the suit.

(*5*) Nothing in this section shall affect—

(*a*) suits in respect of loans advanced by a money-lender before the date on which this Act comes into force;

New section 8A was inserted by Bom. 58 of 1948, s. 5.

Bom. XXI of 1881. Bom. VI of 1888. III of 1909. V of 1920. VII of 1913.

(*b*) the powers of a Court of Wards, or a manager of an estate taken under management under the Broach and Kaira Incumbered Estates Act, 1881, or the Gujarat Talukdars Act, 1888, or an Official Assignee, a receiver, an administrator or a Court under the provisions of the Presidency-towns Insolvency Act, 1909, or the Provincial Insolvency Act, 1920, or of a liquidator under the Indian Companies Act, 1913, to realise the property of a money-lender.

Entry in register and grant of licence to a money-lender directed to obtain licence under section 10.

11. Any money-lender who is required under sub-section (*2*) of section 10 to produce a licence shall make an application to the Registrar through the Assistant Registrar in the manner specified in section 6 and on receipt of such application the Registrar may, subject to the provisions of section 8, and after making such inquiry as he deems fit, grant the money-lender on payment of the arrears of licence fee, and the penalty, if any, directed by the Court to be paid, a licence in the form and subject to the conditions specified in section 7 and direct the Assistant Registrar to enter the name of the money-lender in the register.

Application for cancellation of licence.

12. (*1*) Any person may, during the currency of a licence, file an application, to the Registrar General for the cancellation of the licence issued to a money-lender on the ground that such money-lender has been guilty of any act or conduct for which the Registrar may under section 8 refuse him the grant of a licence. At the time of filing his application the said person shall deposit such amount not exceeding Rs. 100 as the Registrar General may deem fit.

(*2*) On the receipt of such application and deposit the Registrar General shall hold an inquiry and if he is satisfied that the money-lender has been guilty of such act or conduct he may direct the Registrar to cancel the licence of the money-lender and may also direct the return of the deposit made under-sub-section (*1*).

(*3*) If in the opinion of the Registrar General, an application made under sub-sub-section (*1*) is frivolous or vexatious, he may, out of the deposit made under sub-section (*1*), direct to be paid to the money-lender such amount as he deems fit as compensation.

Registrar General, Registrar and Assistant Registrar to have powers of Civil Court.

V of 1908.

13. For the purposes of section 7 the Registrar and Assistant Registrar, and for the purposes of section 12 the Registrar General, shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters :—

(*a*) enforcing the attendance of any person and examining him on oath ;
(*b*) compelling the production of documents and material objects ;
(*c*) issuing commissions for the examination of witnesses ; and
(*d*) proof of facts by affidavits.

Power of authorised officer to require production of record or document.

[1][**13A.** For the purpose of verifying whether the business of money-lending is carried on in accordance with the provisions of this Act, any Registrar, Assistant Registrar or any other officer authorised by the Provincial Government in this behalf may require any money-lender to produce any record or document in his possession which in his opinion is relevant for the purpose and thereupon such money-lender shall produce such record or document. The Registrar, Assistant Registrar or officer so authorised may after reasonable notice at any reasonable time enter any premises where he believes such record or document to be and may ask any question necessary for interpreting or verifying such record.]

[1] New section 13 was inserted by Bom. 58 of 1948, s. 6.

Court's power to cancel or suspend a licence.

14. (*1*) (*i*) A Court passing an order of conviction against a money-lender for an offence under this Act, or

(*ii*) a Court trying a suit to which this Act applies, if satisfied that such money-lender has committed such contravention of the provisions of this Act or the rules as would, in its opinion, make him unfit to carry on the business of money-lending—

(*a*) may order that all the licences held by such money-lender in the Province be cancelled or suspended for such time as it may think fit; and

(*b*) may, if it thinks fit, declare any such money-lender, or if any money-lender is an undivided Hindu family, a [1][bank, company] or an unincorporated body, such family, [1][bank, company] or body and also any person responsible for the management of the business of money-lending carried on by such family, [1][bank, company] or body, to be disqualified from holding any licence in the Province for such time as the Court may think fit.

(*2*) Where a Court convicts a money-lender of an offence under this Act, or makes an order or declaration under clause (*a*) or (*b*) of sub-section (*1*), it shall cause the particulars of the conviction, order or declaration, as the case may be, to be endorsed on all the licences held by the money-lender convicted or by any other person affected by the order or declaration and shall cause copies of its order or declaration to be sent to the Registrars by whom the licences were granted for the purpose of entering such particulars in the registers:

Provided that where any licence held by any money-lender is suspended or cancelled or any money-lender is disqualified from holding any licence under this section he may appeal against such order to the Court to which an appeal ordinarily lies from the decision of the Court passing the order; and the Court which passed the order or the Court of appeal may, if it thinks fit, pending the appeal, stay the operation of the order under this section.

(*3*) Any licence required by a Court for endorsement in accordance with sub-section (*2*) shall be produced by the person by whom it is held in such manner and within such time as may be directed by the Court and any person who, without reasonable cause, makes default in producing the licence so required shall be liable, on conviction, to a fine not exceeding Rs. 500 for each day for the period during which the default continues.

(*4*) Powers conferred on a Court under this section may be exercised by any Court in appeal or in revision.

No compensation for suspension or cancellation of licence.

15. Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any licence fee.

Persons debarred from doing business during period of suspension or cancellation of licence.

16. A person whose licence has been suspended or cancelled in accordance with the provisions of this Act shall, during the period of suspension or cancellation, as the case may be, be disqualified from holding any licence in the Province.

[1] These words were substituted for the word "bank" by Bom. 58 of 1948, s. 7.

17. No person whose licence has been endorsed under section 14 or who has been disqualified from holding a licence shall apply for, or be eligible to hold a licence, without giving particulars of such endorsement or disqualification.

Person whose licence is suspended or cancelled not to apply without giving particulars of endorsement or of disqualification.

18. (*1*) Every money-lender shall keep and maintain a cash book and a ledger in such form and in such manner as may be prescribed.

Duty of money-lender to keep accounts, and furnish copies.

(*2*) Every money-lender shall—

(*a*) deliver or cause to be delivered—

(*i*) to the debtor within 30 days from the date on which a loan is made, a statement in any recognised language showing in clear and distinct terms the amount and date of the loan and of its maturity, the nature of the security, if any, for the loan, the name and address of the debtor and of the money-lender and the rate of interest charged;

(*ii*) to the Assistant Registrar, within the said period a copy of the said statement;

(*b*) upon repayment of a loan in full, mark indelibly every paper signed by the debtor with words indicating payment or cancellation, and discharge every mortgage, restore every pledge, return every note and cancel or reassign every assignment given by the debtor as security for the loan.

(*3*) No money-lender shall receive any payment from a debtor on account of any loan without giving him a plain and complete receipt for the payment.

(*4*) No money-lender shall accept from a debtor any article as a pawn, pledge or security for a loan without giving him a plain signed receipt for the same with its description, estimated value, the amount of loan advanced against it and such other particulars as may be prescribed.

19. (*1*) Every money-lender shall deliver or cause to be delivered every year to each of his debtors a legible statement of such debtor's accounts signed by the money-lender or his agent of any amount that may be outstanding against such debtor. The statement shall show—

Delivery of statement of accounts and copies thereof by money-lender.

(*i*) the amount of principal and the amount of interest, separately, due to the money-lender;

(*ii*) the amount of every payment already received by the money-lender in respect of the loan during the year together with the date on which each payment was made;

(*iii*) all payments credited first in the account of interest, and the residue, if any, of any payment more than sufficient to discharge the balance of interest due at the time it is made, credited to the debtor in the account of principal;

(*iv*) the amount of principal remaining unpaid and the interest thereon.

The statement shall be signed by the money-lender, or his agent, and shall be in any recognised language. It shall be in such form and shall be supplied to the debtor on or before such date as may be prescribed.

The money-lender shall on or before the aforesaid date deliver or cause to be delivered a copy of each such statement to the Assistant Registrar.

(*2*) In respect of any particular loan, whether advanced before or after the date on which this Act comes into force, the money-lender shall, on demand in writing being made by the debtor at any time during the period when the loan or any part thereof has not been repaid, and on payment of the prescribed fee supply to the debtor, or if the debtor so requires to any person specified in that behalf in the demand, a statement, in any recognised language, signed by the money-lender or his agent, and containing the relevant particulars specified in sub-section (*1*).

(*3*) A money-lender shall, on a demand in writing by the debtor, and tender of the prescribed sum of expenses, supply a copy of any document relating to a loan made by him or any security therefor to the debtor, or if the debtor so requires to any person specified in that behalf in the demand.

(*4*) For the purposes of this section "year" means the year for which the accounts of the money-lender are ordinarily maintained in his own books.

Fees for certain statements supplied to debtors and Assistant Registrars.

[1][**19A.** (*1*) A money-lender may recover from a debtor fees for the statements supplied to him under sub-section (*2*) of section 18 or sub-section (*1*) of section 19 and in respect of copies of such statements supplied to the Assistant Registrar under the said sub-sections.

(*2*) Such fees shall be recoverable at such rates and in such manner as may be prescribed, subject to the maximum of two rupees per debtor, per year, irrespective of the number of statements or copies thereof supplied to the debtor or the Assistant Registrar during the relevant year.]

Debtor not bound to admit correctness of accounts.

20. A debtor to whom a statement of accounts has been furnished under section 19 shall not be bound to acknowledge or deny its correctness and his failure to do so shall not, by itself, be deemed to be an admission of the correctness of the accounts.

Procedure of Court in suits regarding loans.

21. Notwithstanding anything contained in any law for the time being in force, in any suit to which this Act applies—

(*a*) a Court shall, before deciding the claim on merits, frame and decide the issue whether the money-lender has complied with the provisions of sections 18 and 19;

(*b*) if the Court finds that the provisions of section 18 or section 19 have not been complied with by the money-lender, it may, if the plaintiff's claim is established, in whole or in part, disallow the whole or any portion of the interest found due, as may seem reasonable to it in the circumstances of the case and may disallow costs.

Explanation.—A money-lender who has given the receipt or furnished a statement of accounts in the prescribed form and manner, shall be held to have complied with the provisions of section 18 or section 19, as the case may be, in spite of any errors and omissions, if the Court finds that such errors and omissions are not material or not made fraudulently.

Provisions of certain sections not to apply to loans made by bank, [2][company] or unincorporated body exempted by Government.

22. Nothing in sections 18 to 21 shall apply to loans advanced by any [3][bank, company] or unincorporated body which the Provincial Government may by notification in the *Official Gazette* exempt from the operation of those sections.

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[1] Section 19A was inserted by Bom. 58 of 1948, s. 8.

[2] This word was inserted, *ibid.*, s. 9.

[3] These words were substituted for the word "bank", *ibid.*

23. Notwithstanding anything contained in any agreement or any law for the time being in force, no Court shall in respect of any loan whether advanced before or after the date on which this Act comes into force, decree, on account of interest, a sum greater than the principal of the loan due on the date of the decree. Power of Court to limit interest recoverable in certain cases.

V of 1908. **24.** Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Court may, at any time, on application of a judgment-debtor, after notice to the decree-holder, direct that the amount of any decree passed against him, whether before or after the date on which this Act comes into force, in respect of a loan, shall be paid in such number of instalments and subject to such conditions, and payable on such dates, as, having regard to the circumstances of the judgment-debtor and the amount of the decree, it considers fit. Power of Court to direct payment of decretal amount by instalments.

25. (*1*) The Provincial Government may from time to time by notification in the *Official Gazette* fix the maximum rates of interest for any local area or class of business of money-lending in respect of secured and unsecured loans : Limitation on rates of interest.

Provided that the maximum rate of interest shall not exceed 6 per cent. per annum in the case of secured loans and 9 per cent. per annum in the case of unsecured loans.

(*2*) Notwithstanding anything contained in any law for the time being in force, no agreement between a money-lender and a debtor for payment of interest at rates exceeding he maximum rates fixed by the Provincial Government under sub-section (*1*) shall be valid and no Court shall in any suit to which this Act applies award interest exceeding the said rates.

26. No money-lender shall receive from a debtor or intending debtor any sum other than reasonable costs of investigating title to the property, costs of stamp, registration of documents and other usual out-of-pocket expenses in cases where an agreement between the parties includes a stipulation that property is to be given as security or by way of mortgage and where both parties have agreed to such costs and reimbursement thereof ; or where such costs, charges or expenses are leviable under the provisions of the Transfer of Property Act, 1882, or any other law for the time being in force. Prohibition of charge for expenses on loans by money-lenders.

IV of 1882.

27. (*1*) Where a loan advanced, whether before or after the date on which this Act comes into force, or any interest of such loan or the benefit of any agreement made or security taken in respect of such loan or interest is assigned to any assignee, the assignor (whether he is the money-lender by whom the money was lent or any person to whom the debt has been previously assigned) shall, before the assignment is made— Notice and information to be given on assignment of loan.

(*a*) give the assignee notice in writing that the loan, interest, agreement or security is affected by the operation of this Act ;

(*b*) supply to the assignee all information necessary to enable him to comply with the provisions of this Act ; and

(*c*) give the debtor notice in writing of the assignment supplying the name and address of the assignee.

(*2*) Any person acting in contravention of the provisions of sub-section (*1*) shall be liable to indemnify any other person who is prejudiced by the contravention.

Application of Act as respects assignees.

28. (*1*) Save as hereinafter provided, where any debt due to a money-lender in respect of money lent by him whether before or after the date on which this Act comes into force or of interest on money so lent or of the benefit of any agreement made or security taken in respect of any such debt or interest, has been assigned, the assignee shall be deemed to be the money-lender and all the provisions of this Act shall apply to such assignee as if he were the money-lender.

(*2*) Notwithstanding anything contained in this Act or in any other law for the time being in force, where for any reason any such assignment is invalid and the debtor has made any payment of money or transfer of property on account of any loan which has been so assigned, the assignee shall in respect of such payment or transfer be deemed to be the agent of the money-lender for all the purposes of this Act.

Reopening of transactions.

29. Notwithstanding anything contained in any law for the time being in force, the Court shall, in any suit to which this Act applies, whether heard *ex parte* or otherwise—

(*a*) reopen any transaction, or any account already taken between the parties;

(*b*) take an account between the parties;

(*c*) reduce the amount charged to the debtor in respect of any excessive interest;

(*d*) if on taking accounts it is found that the money-lender has received more than what is due to him pass a decree in favour of the debtor in respect of such amount:

Provided that in the exercise of these powers, the Court shall not—

(*i*) reopen any adjustment or agreement purporting to close previous dealings and to create new obligations which have been entered into by the parties or any person through whom the claim at a date more than six years from the date of the suit;

(*ii*) do anything which affects any decree of a Court.

Explanation.—For the purpose of this section "excessive interest" means interest at a rate which contravenes any of the provisions of section 25.

Inquiry for taking accounts and declaring the amount due.

30. (*1*) Any debtor may make an application at any time to the Court, whether the loan to which the suit relates has or has not become payable, for taking accounts and for declaring the amount due to the money-lender. Such application shall be in the prescribed form and accompanied by the prescribed fee.

(*2*) On receipt of such application, the Court shall cause a notice of the application to be given to the money-lender.

(*3*) On the date fixed for the hearing of the application or on such date to which the hearing may be adjourned from time to time, the Court shall make an inquiry and shall after taking an account of the transactions between the parties pass an order declaring the amount, if any, still payable by the debtor to the money-lender, in respect of the principal and interest, if any. In taking accounts under this section the Court shall follow the provisions of sections 18 to 29.

31. (*1*) At any time a debtor may tender to a money-lender any sum of money due from him to the money-lender in respect of a loan by way of principal, interest or both. Deposit in Court of money due to money-lender.

(*2*) If the money-lender refuses to accept any sum so tendered, the debtor may deposit the said sum in Court to the account of the money-lender.

(*3*) The Court shall thereupon cause written notice of the deposit to be served on the money-lender, and he may, on presenting a petition stating the sum then due in respect of the loan, and his willingness to accept the said sum, receive and appropriate it first towards the interest and the residue if any towards the principal.

(*4*) When the money-lender does not accept the sum, the Court shall appropriate the said sum first towards the interest and the residue if any towards the principal.

32. (*1*) No money-lender shall take any promissory note, acknowledgment, bond or other writing which does not state the actual amount of the loan, or which states such amount wrongly or execute any instrument in which blanks are left to be filled after execution. Entry of wrong sum in bond, etc., to be an offence.

(*2*) Whoever contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with fine which may extend to Rs. 1,000 or with imprisonment of either description which may extend to six months or with both.

33. (*1*) Whoever molests, or abets the molestation of, a debtor for the recovery of a debt due by him to a creditor shall, on conviction, be punishable with imprisonment of either description which may extend to three months or with fine which may extend to Rs. 500 or with both. Penalty for molestation.

Explanation.—For the purposes of this section a person who, with intent to cause another person to abstain from doing any act which he has a right to do or to do any act which he has a right to abstain from doing—

(*a*) obstructs or uses violence to or intimidates such other person, or

(*b*) persistently follows such other person from place to place or interferes with any property owned or used by him or deprives him of, or hinders him in, the use thereof, or

(*c*) loiters near a house or other place where such other person resides or works, or carries on business, or happens to be, or does any act calculated to annoy or intimidate such other person.

shall be deemed to molest such other person :

Provided that a person who goes to such house or place in order merely to obtain or communicate information shall not be deemed to molest.

(*2*) Notwithstanding anything contained in the Second Schedule to the Code of Criminal Procedure, 1898, an offence under this section shall be cognizable. V of 1898.

34. Whoever fails to comply with or acts in contravention of any provision of this Act, shall, if no specific penalty has been provided for in this Act, be punishable— General provision regarding penalties.

(*a*) for the first offence with fine which may extend to Rs. 200,

(*b*) for the second offence with fine which may extend to Rs. 500, and

(*c*) for any subsequent offence with rigorous imprisonment which may extend to three months and with fine.

35. If the person contravening any of the provisions of this Act is an undivided Hindu family or a bank [1][or a company] or an unincorporated body, the person responsible for the management of the business of such family [2][bank, company] or body shall be deemed to be guilty of such contravention. Offences by corporations, etc.

[1] These words were inserted by Bom. 58 of 1948, s. 10.

[2] These words were substituted for the word "bank", *ibid.*

Arrest and imprisonment in execution of decree for money, against agricultural debtors, abolished.

36. Notwithstanding any law for the time being in force, no debtor who cultivates land personally and whose debts do not exceed Rs. 15,000 shall be arrested or imprisoned in execution of a decree for money passed in favour of a money-lender, whether before or after the date on which this Act comes into force.

Explanation.—" To cultivate personally " has the meaning assigned to it in clause (11) of section 2 of the Bombay Tenancy Act, 1939.* Bom. XXIX of 1939.

Every officer to be public servant.

37. Every officer of the Crown acting under the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Provisions of Bom. XXVIII of 1939 saved.

38. Nothing in this Act shall affect any of the provisions of the Bombay Agricultural Debtors Relief Act, 1939, †and no Court shall entertain or proceed under this Act with any suit or proceeding relating to any loan in respect of which debt adjustment proceedings can be taken under the said Act. Bom. XXVIII of 1939.

Rules.

39. (*1*) The Provincial Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters :—

(*a*) the form of the register under section 4 ;

[1][(*b*) the form of the application for a licence, the further particulars to be included therein and the manner of payment of licence fee under section 6 ;]

(*c*) the form and conditions of the licence, the manner of payment of licence fee and the procedure for a summary inquiry under section 7 ;

(*d*) the form of cash book and ledger and the manner in which they should be maintained under sub-section (*1*), and the other particulars to be prescribed under sub-section (*4*), of section 18 ;

(*e*) the form of the statement of accounts to be furnished and the date before which it is to be furnished under sub-section (*1*), the fee to be paid under sub-section (*2*), and the sum of expenses to be paid under sub-section (*3*), of section 19 ;

[2][(*ee*) the rates at which and the manner in which fees may be recovered under section 19A ;]

(*f*) the form of application and the fee to be paid under sub-section (*1*) of section 30 ;

(*g*) any other matter which is or may be prescribed under this Act or any matter for which there is no provision or insufficient provision in this Act and for which provision is, in the opinion of the Provincial Government, necessary for giving effect to the provisions of this Act.

(*3*) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

(*4*) The rules made under this section shall be laid before each Chamber of the Provincial Legislature at the session thereof next following and shall be liable to be modified or rescinded by a resolution in which both Chambers concur and such rule shall, after notification in the Official Gazette, be deemed to have been modified or rescinded accordingly.

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[1] This clause was substituted for the original by Bom. 58 of 1948, s. 11 (*i*).
[2] This clause was inserted, *ibid.*, s. 11(*ii*).
*See now section 2 (6) of Bom. 67 of 1948.
†See now Bom. 28 of 1947.

THE LORD REAY MAHARASHTRA INDUSTRIAL MUSEUM ACT, 1947.

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BOMBAY ACT No. XXXII OF 1947.[1]

[THE LORD REAY MAHARASHTRA INDUSTRIAL MUSEUM ACT, 1947.]

[*5th June 1947.*]

An Act to provide for the management and maintenance of the Lord Reay Maharashtra Industrial Museum at Poona.

WHEREAS it is expedient to provide by law for the management and maintenance of the Lord Reay Maharashtra Industrial Museum at Poona and for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

Preliminary.

1. This Act may be called the Lord Reay Maharashtra Industrial Museum Act, 1947. Short title.

2. (*1*) "The Lord Reay Maharashtra Industrial Museum" referred to in this Act as "the Museum" means the institution known at the date of the passing of this Act by the name of the Lord Reay Industrial Museum. Definitions.

(*2*) "prescribed" means prescribed by rules made under this Act.

Objects and Membership.

3. The aims and objects of the Museum shall be— Aims and objects.

(*1*) to serve as an educative institution for the general public with a view to illustrating various branches of science and in particular their application to industry, agriculture and commerce;

(*2*) to show by means of exhibits, machines, models, pictures and charts the origin, development and modern practice of each branch of science and its application to industry, agriculture and commerce;

(*3*) to maintain a technical library including cinematographic films, lantern slides and photographs;

(*4*) to arrange, hold and undertake lectures, demonstrations and tours with a view to promoting interest in industrial development;

(*5*) to organise and help in organising industrial exhibitions;

(*6*) to organise and help in organising a commercial emporium;

(*7*) to popularise the products of industries and handicrafts of the Province of Bombay in particular and of India in general;

(*8*) to undertake and do all such works and things as may be necessary for, or conducive to, the attainment of any of the aforesaid aims and objects.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 11; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X; and for proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. X.

Members.

4. (*1*) Members of the Museum shall consist of the following classes :—

(*i*) Patrons, that is to say, those who pay or have already paid Rs. 5,000 or more (in a lump sum);

(*ii*) Life members, that is to say, those who pay or have already paid Rs. 500 or more (in a lump sum);

(*iii*) Donors, that is to say, those who pay or have already paid Rs. 300 or more (in a lump sum);

(*iv*) Ordinary members, that is to say, those who pay Rs. 10 annually.

(*2*) No person shall be debarred from becoming a member of the Museum by reason of his religion, caste, creed or sex.

Meeting of general body of members.

5. A meeting of the general body of members shall be called by the Board every year at such time and place as may be prescribed.

Board of Trustees.

Constitution of Board.

6. (*1*) There shall be constituted for the maintenance and management of the Museum and for the other purposes of this Act a permanent Board of Trustees (in this Act referred to as "the Board"). It shall be a body corporate by the name of "the Trustees of the Lord Reay Maharashtra Industrial Museum, Poona", with perpetual succession and a common seal, shall sue and be sued in that name and shall have power to acquire and hold property, to let on hire, lease or mortgage any immovable property vesting in it, to enter into contracts and to do all other acts necessary for and consistent with the purposes of this Act.

(*2*) The Board shall consist of—

A. (*i*) the Commissioner, Central Division;

(*ii*) to (*v*) any four of the following officials nominated by the Government of Bombay :—

(*a*) the District and Sessions Judge, Poona;
(*b*) the Director of Industries or his nominee;
(*c*) the Director of Agriculture, Poona;
(*d*) the Chief Conservator of Forests, Poona;
(*e*) the Director of Public Instruction, Poona;
(*f*) the Superintending Engineer, Central Circle, Poona;
(*g*) the Registrar of Co-operative Societies and Director of Rural Development, Poona.

B. The following four ex-officio representatives of the Poona City Borough Municipality :—

(*i*) the President who shall be the Chairman,
(*ii*) the Chairman, Standing Committee,
(*iii*) the Chairman, School Board, and
(*iv*) the Chairman, Finance Committee.

C. Such number as may be prescribed of representatives of local bodies other than the Poona City Borough Municipality nominated by the local bodies on those bodies agreeing to make a contribution of such amount, each, as may be prescribed to the funds of the Museum.

D. Four representatives of the members of the Museum elected in the prescribed manner:

Provided that no ordinary member of the Museum shall be eligible to be elected a representative unless he has been such a member for not less than 3 years.

E. Two representatives of local commercial and industrial interests, one to be nominated by the Deccan Agricultural Association, Poona, and the other by the Mahratta Chamber of Commerce and Industries, Poona.

F. Two non-official representatives nominated by the Government of Bombay one from each of the following local institutes, namely :—

(1) The Ranade Economic Institute, Poona.

(2) The Gokhale School of Politics and Economics, Poona :

Provided that no representative referred to in clauses E and F of this sub-section shall be nominated until the institute concerned has paid to the funds of the Museum an affiliation fee of Rs. 300, or shall continue to be a member of the Board unless the institute pays to the said funds within the prescribed period an annual subscription of Rs. 100.

7. (*1*) Members of the Board other than ex-officio members shall, save as herein otherwise provided, hold office for a period of three years. Term of office.

(*2*) If a member, other than an ex-officio member,—

(*a*) dies or becomes insolvent, or

(*b*) is absent from more than six consecutive meetings of the Board, or

(*c*) leaves the Province of Bombay with the intention of being absent therefrom for more than six consecutive months, or

(*d*) desires to be discharged, or

(*e*) refuses to act or becomes incapable of acting,

a new member shall be elected or nominated, as the case may be, in the same manner as was the member in whose place he is to be elected or nominated and he shall hold office for so long only as such member would have held it if the vacancy had not occurred.

8. (*1*) The Commissioner, Central Division, and in his absence, the District and Sessions Judge, Poona, if he is a member of the Board and in the absence of both, the Chairman of the Board, shall preside at the meetings of the Board. Quorum.

(*2*) The quorum necessary for the transaction of business at a meeting of the Board shall be five.

9. No act of the Board shall be deemed to be invalid merely by reason of any vacancy in, or defect in the constitution of the Board. Acts of Board not invalid by reason of vacancy, etc.

10. All property whether moveable or immovable which, at the commencement of this Act, was held on trust for the purposes of the Lord Reay Industrial Museum, together with any such property which may hereafter be given, bequeathed, transferred or acquired for the said purposes, including contributions, fees and subscriptions, and property accruing as a result of the exercise of any of the Board's powers, shall vest in the Board for the purposes of the Museum. Property vested in Board.

Power of Board to lend, exchange, sell or destroy articles in collections.

11. Subject to the provisions of any rules or by-laws made in this behalf the Board may, from time to time,—

(*a*) deliver by way of loan to any person the whole or any portion of, or any article contained in, any collection vested in it under this Act;

(*b*) exchange or sell articles contained in any such collection and take or purchase, in the place of such articles, such other articles as may in its opinion be worthy of preservation in the Museum;

(*c*) present articles contained in any such collection to other museums in India or elsewhere;

(*d*) remove and destroy any article contained in any such collection:

Provided that nothing herein contained shall authorize the Board to lend, exchange, sell, present, remove or destroy any article when such lending, exchange, sale, presentation, removal or destruction, as the case may be, is precluded by the terms on which the Board may have received any such article.

Further powers of Board.

12. The Board may, if it thinks fit for the purposes of its trust under this Act—

(*1*) assume the custody and administration of collections which are not the property of the Board and keep and preserve such collections either in the Museum or elsewhere;

(*2*) subject to any rules made by the Provincial Government in this behalf, organise courses of industrial and technical instruction and afford facilities for the sale or exhibition of products of Indian industries and handicrafts.

Power of Board to borrow.

13. The Board may from time to time borrow or reborrow and take up at interest from the Central Government or the Government of Bombay or with the previous sanction of the Government of Bombay from any person, any sum necessary for the purpose of defraying any costs, charges or expenses incurred or to be incurred by them to carry out the purposes of this Act, or for the purpose of repaying either in whole or in part any sums hereafter borrowed or owing by the Board.

Power of Board to make by-laws.

14. (*1*) The Board may, from time to time, with the previous sanction of the Government of Bombay, make by-laws not inconsistent with the provisions of this Act or rules made thereunder for any purpose necessary for the execution of its trust.

(*2*) In particular and without prejudice to the generality of the foregoing powers such by-laws may provide for—

(*a*) the summoning, holding and adjournment of meetings of the Board and procedure at such meetings;

(*b*) the securing of the attendance of trustees at such meetings;

(*c*) the keeping of minutes book and account books;

(*d*) the limits up to which the Chairman and the Secretary may sanction expenditure under section 18;

(*e*) the compiling of catalogues and guide books and other publications;

(*f*) the lending of articles contained in the collections vested in the Board;

(*g*) the exchange, sale or presentation to other museums of duplicates of articles contained in such collections;

(*h*) the removal and destruction of articles contained in such collections; and

(*i*) the general management of the Museum.

Secretary and Staff.

15. There shall be a Curator of the Museum who shall also be the Secretary to the Board. The Board shall determine the terms and conditions of his service and of such other staff as it may employ. Secretary and staff.

XLV of 1860. **16.** All officers and servants employed by the Board shall be deemed to be public servants within the meaning of the Indian Penal Code: Officers and servants of Board to be public servants.

Provided that this section shall not apply to persons in the service of any contractor employed by the Board.

Miscellaneous.

17. Notwithstanding anything contained in the Bombay Municipal Boroughs Act, 1925, the Poona City Borough Municipality shall make an annual grant of not less than Rs. 7,500 to the funds of the Museum. Contribution by Poona City Borough Municipality.

Bom. XVIII of 1925.

18. (*1*) All expenditure shall be sanctioned by the Board. The Board may from time to time authorize the Chairman and the Secretary to sanction expenditure every month up to such limits as may be determined in its by-laws. All cases of sanction by the Chairman or the Secretary shall be duly placed before the subsequent meeting of the Board for ratification. Expenditure.

(*2*) Every order for the payment of money shall be authenticated by the signature of the Secretary and counter-signature of the Chairman.

19. (*1*) There shall be an annual audit of the accounts of the Museum carried out by an auditor appointed in this behalf by the Accountant General, Bombay. Audit.

(*2*) The Secretary shall furnish to the auditor an annual statement of accounts supported by the necessary vouchers and generally assist the auditor in his work.

(*3*) The auditor's report shall be placed before the Board.

20. The Provincial Government shall have the right to cause inspection to be made by such person or persons as it may appoint of the Museum and its buildings, library books, furniture and other equipment and, upon any recommendation made by such person or persons, to direct the Board to take such action as it may think fit. Inspection of Museum.

21. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules to carry out the purposes of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for the following matters:—

(*a*) the time of the year and place at which a meeting of the general body of members shall be called under section 5;

(*b*) the number of representatives of local bodies other than the Poona City Borough Municipality, the amount of contribution to be made by them under clause C, and the manner of election of representatives of members under clause D, of sub-section (*2*) of section 6; and the period within which the annual subscription shall be paid under the proviso thereto;

(*c*) the appointment of committees of the Board and the powers which may be delegated to such committees;

(*d*) the erection of Museum buildings, the transfer of the Museum to a new site, the maintenance and management of the Museum, the exercise of the Board's powers under section 11 and sub-section (*2*) of section 12, the care and custody of the objects deposited in the Museum and the conditions under which the public shall have access to the Museum;

(*e*) the maintenance, management and disposal of any property vested in the Board and the investment and reinvestment in public securities or otherwise and the safe custody of the funds of the Museum;

(*f*) the form of accounts to be kept by the Board and the publication of such accounts;

(*g*) the application to the officers and servants employed by the Board of the rules which apply to the civil servants of the Crown or to any class of such civil servants;

(*h*) the payment of contributions at such rates and subject to such conditions as may from time to time be determined by the Board to any provident fund which may be established by the Board for the benefit of the officers and servants employed by it;

(*i*) the management of the library and reading room.

Vacation of office by existing trustees.

22. From the date of the first meeting of the Board, the existing trustees of the Lord Reay Industrial Museum shall be discharged:

Provided that nothing contained in this section shall absolve any of the said trustees from any liability accruing before that date.

THE BOMBAY ADJUDICATION PROCEEDINGS (TRANSFER AND CONTINUANCE) ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Provincial Government's power to make order for transfer and continuance of adjudication proceedings before Tribunal.
3. Penalty.
4. Savings.
5. Repeal of Bombay Ordinance IV of 1947.

BOMBAY ACT No. XXXIV OF 1947.[1]

[THE BOMBAY ADJUDICATION PROCEEDINGS (TRANSFER AND CONTINUANCE) ACT, 1947.]

[*22nd November 1947.*]

An Act to provide for the transfer and continuance of adjudication proceedings in trade disputes referred to an Adjudicator for adjudication under rule 81A of the Defence of India Rules and pending before such Adjudicator.

WHEREAS it is expedient to enable the Provincial Government to transfer to, and continue before, a Tribunal constituted by the Provincial Government under the Industrial Disputes Act, 1947, adjudication proceedings in trade disputes referred to an Adjudicator for adjudication under rule 81A of the Defence of India Rules and pending before such Adjudicator at the commencement of this Act; It is hereby enacted as follows:—

XIV of 1947.

Short title and extent.

1. (*1*) This Act may be called the Bombay Adjudication Proceedings (Transfer and Continuance) Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

Provincial Government's power to make order for transfer and continuance of adjudication proceedings before Tribunal.

2. The Provincial Government may, by order notified in the *Official Gazette*, direct that any proceedings in any trade dispute referred to an Adjudicator for adjudication under rule 81A of the Defence of India Rules and pending before such Adjudicator at the commencement of this Act shall, from the stage reached before the Adjudicator, be transferred to, and continued before, a Tribunal constituted by the Provincial Government under the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act), and thereupon such dispute shall be deemed to be an industrial dispute within the meaning of the said Act and all the provisions of the said Act shall apply in relation to such dispute as if it were referred to the Tribunal for adjudication under the said Act.

XIV of 1947.

Penalty.

3. For the avoidance of doubt it is hereby declared that any employer, workman or person, who commits an offence under section 26, 27, 28, 29, 30 or 31 of the said Act in relation to such dispute the proceedings in which have been transferred to, and continued before, a Tribunal under section 2, shall be liable to the punishment provided in any of the said sections.

Savings.

4. Nothing in this Act shall affect—

(*a*) any penalty, forfeiture or punishment incurred in respect of any contravention of the provisions of rule 81A of the Defence of India Rules or of any order made thereunder in rleation to a trade dispute the proceedings in which have been transferred to, and continued before, a Tribunal under section 2; or

(*b*) any investigation, legal proceeding or remedy in respect of any penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed, as if this Act had not been made.

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 339.

Repeal of Bombay Ordinance IV of 1947.

5. The Bombay Adjudication Proceedings (Transfer and Continuance) Ordinance, 1947, is hereby repealed ; and it is hereby declared that the provisions of section 7 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment.

Bom. Ordinance No. IV of 1947.

Bom. I of 1904.

THE BOMBAY HARIJAN TEMPLE ENTRY ACT, 1947.

CONTENTS.

PREAMBLE.

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1. Short title and extent.
2. Definitions.
3. Right of Harijan to enter and perform worship in temples.
4. Penalty.
5. Exclusion of jurisdiction of courts.
6. Power to arrest without warrant.

BOMBAY ACT No. XXXV OF 1947.[1]

[THE BOMBAY HARIJAN TEMPLE ENTRY ACT, 1947.]

[*23rd November 1947.*]

Amended by Bom. 77 of 1948.

An Act to entitle Harijans to enter and perform worship in temples in the Province of Bombay.

WHEREAS it is expedient that the rights of the Harijans to enter and perform worship in temples in the Province of Bombay be recognised by law; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bombay Harijan Temple Entry Act, 1947. Short title and extent.

(*2*) It extends to the whole of the Province of Bombay.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "Harijan" means a member of a caste, race or tribe deemed to be a Scheduled Caste under the Government of India (Scheduled Castes) Order, 1936;

(*b*) "Hindus" includes Jains;

[2][(*c*) "temple" means a place, by whatever name known and to whomsoever belonging, which is used as a place of religious worship by custom, usage or otherwise by the members of the Hindu community or any section thereof and includes all land appurtenant thereto and subsidiary shrines attached to any such place;]

(*d*) "worship" includes attendance at a temple for the purpose of *darshan* of a deity or deities [3]* * in or within the precincts thereof.

3. Notwithstanding anything contained in the terms of any instrument of trust, the terms of dedication, the terms of a sanad, or a decree or order of a competent court, or any custom, usage or law, for the time being in force to the contrary, every temple shall be open to Harijans for worship in the same manner and to the same extent as [4][to any member of the Hindu community or any section thereof] and Harijans shall be entitled to bathe in, or use the waters of, any sacred tank, well, spring or water-course in the same manner and to the same extent as [4][any member of the Hindu community or any section thereof]. Right of Harijan to enter and perform worship in temples.

4. (*1*) Whoever— Penalty.

(*i*) prevents a Harijan from exercising any right conferred by this Act, or

(*ii*) molests or obstructs or causes or attempts to cause obstruction to a Harijan in the exercise of any such rights shall, on conviction, be punishable with imprisonment which may extend to six months or with fine or with both.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 158; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X and XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

[2] This clause was substituted for the original by Bom. 77 of 1948, s. 2(*1*).

[3] The word "installed" was deleted, *ibid.*, s. 2(*2*).

[4] These words were substituted for the words "other Hindus in general", *ibid.*, s. 3.

(*2*) Notwithstanding anything to the contrary contained in any instrument or any law, custom or usage, where the manager or trustee of a temple which is in receipt of a grant of land or money from Government is convicted of an offence punishable under sub-section (*1*), and such conviction is not subsequently reversed or quashed, the Provincial Government may direct the suspension or resumption of the whole or any part of such grant.

Exclusion of jurisdiction of courts.

5. No civil court shall entertain or continue any suit or proceeding or shall pass an order or decree or execute wholly or partially any order or decree, if the claim involved in such suit or proceeding or if the passing of such order or decree or if such execution, would in any way be inconsistent with the provisions of this Act.

Power to arrest without warrant.

6. Any police officer not below the rank of a Sub-Inspector may arrest without warrant any person who is reasonably suspected of having committed an offence punishable under this Act.

THE BOMBAY ESSENTIAL SUPPLIES (TEMPORARY POWERS) AND THE ESSENTIAL COMMODITIES AND CATTLE (CONTROL) (ENHANCEMENT OF PENALTIES) ACT, 1947.

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PREAMBLE.

SECTIONS.

1. Short title and extent.

2. Enhanced penalties for contravention of orders under Act XXIV of 1946 and Bom. XXII of 1946.

3. Magistrate's power to impose enhanced penalties.

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BOMBAY ACT No. XXXVI OF 1947.[1]

[THE BOMBAY ESSENTIAL SUPPLIES (TEMPORARY POWERS) AND THE ESSENTIAL COMMODITIES AND CATTLE (CONTROL) (ENHANCEMENT OF PENALTIES) ACT, 1947.]

[*25th November 1947.*]

An Act to provide for enhancement of penalties for contravention of orders under the Essential Supplies (Temporary Powers) Act, 1946, and the Bombay Essential Commodities and Cattle (Control) Act, 1946.

WHEREAS it is expedient to provide for the enhancement of penalties for contravention of orders made under the Essential Supplies (Temporary Powers) Act, 1946, and the Bombay Essential Commodities and Cattle (Control) Act, 1946; It is hereby enacted as follows :—

XXIV of 1946. Bom. XXII of 1946.

Short title and extent.

1. (*1*) This Act may be called the Bombay Essential Supplies (Temporary Powers) and the Essential Commodities and Cattle (Control) (Enhancement of Penalties) Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

XXIV of 1946. Bom. XXII of 1946.

Enhanced penalties for contravention of orders under Act XXIV of 1946 and Bom. XXII of 1946.

2. (*1*) Notwithstanding anything contained in the Essential Supplies (Temporary Powers) Act, 1946, whoever contravenes an order made or deemed to be made under section 3 of the said Act, and notwithstanding anything contained in the Bombay Essential Commodities and Cattle (Control) Act, 1946, whoever contravenes an order made or deemed to be made under section 4 of the said Act, shall be punished with imprisonment for a term which may extend to seven years but shall not, except for reasons to be recorded in writing, be less than six months and shall also be liable to fine.

(*2*) Any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened shall be forfeited to the Provincial Government.

V of 1898.

Magistrate's power to impose enhanced penalties.

3. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for any Magistrate of the First Class specially empowered by the Provincial Government in this behalf and for any Presidency Magistrate to pass a sentence provided in section 2, for contravening any order made or deemed to be made under section 3 of the Essential Supplies (Temporary Powers) Act, 1946, or under section 4 of the Bombay Essential Commodities and Cattle (Control) Act, 1946, in excess of his powers under section 32 of the said Code.

XXIV of 46. Bom. XXII of 1946.

Repeal.

4. The Bombay Essential Supplies (Temporary Powers) and the Essential Commodities and Cattle (Control) (Enhancement of Penalties) Ordinance, 1947, is hereby repealed; and it is hereby declared that the provisions of section 7 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment.

Bom. Ordinance No. III of 1947. Bom. I of 1904.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 277.

THE BOMBAY AGRICULTURAL PESTS AND DISEASES ACT, 1947.

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BOMBAY ACT No. XLIII OF 1947.[1]

[THE BOMBAY AGRICULTURAL PESTS AND DISEASES ACT, 1947.]

[*10th December 1947.*]

An Act to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay.

26 Geo. 5, Ch. 2. Bom. XIV of 1941.

WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is expedient to repeal and re-enact the Bombay Agricultural Pests and Diseases Act, 1941, providing for the prevention of the introduction, spread or re-appearance of insect pests, plant diseases and noxious weeds injurious to crops, plants or trees in the Province of Bombay; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Agricultural Pests and Diseases Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*1*) "Assessor" means an assessor appointed under section 14;

(*2*) "Insect pest" means any pest declared to be an insect pest by notification under section 3;

(*3*) "Inspector" means an inspector appointed under section 14;

(*4*) "Notified Area" means any area specified in the notification issued under section 3 in which a declaration made under the said section shall remain in force;

(*5*) "Noxious weed" means any weed declared to be a noxious weed by notification under section 3;

(*6*) "Occupier" means the person having for the time being the right of occupation of any land or premises, or his authorized agent or any person in actual occupation of the land or premises;

(*7*) "Pest" means any insect or other invertebrate animal;

(*8*) "Plant" includes the fruit, leaves, bark, cuttings and any living portion of a plant but does not include the seed:

Provided that the Provincial Government may by notification in the *Official Gazette* direct that the seed of any particular plant shall be included in the definition of plant;

(*9*) "Plant disease" means any fungoid, bacterial, parasitical or other disease declared to be a plant disease by notification under section 3;

(*10*) "Prescribed" means prescribed by rules made under section 17.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 245: for Proceedings in Assembly *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

Power to declare insect pests, plant diseases and noxious weeds and direct measures to eradicate or prevent them.

3. Whenever it appears to the Provincial Government that any pest, disease or weed is injurious to crops, plants or trees in any local area and that it is necessary to take measures to eradicate such pest, disease or weed, or to prevent its introduction, spread or re-appearance, the Provincial Government may, by notification in the *Official Gazette*,—

(*i*) declare that such pest, disease or weed is an insect pest, plant disease or noxious weed ;

(*ii*) specifiy the local area within which and the period during which such declaration shall remain in force ;

(*iii*) prohibit or restrict the removal of any plant or tree from one place to another ; and

(*iv*) direct the carrying out of such preventive or remedial measures including the destruction of any pest, disease or noxious weed or any crops, plants or trees, as the Provincial Government may deem necessary, in order to eradicate such pest, disease or weed or to prevent its introduction, spread or re-appearance.

Duties of occupier on the issue of a notification under section 3.

4. On the issue of a notification under section 3, every occupier within the notified area shall carry out the preventive or remedial measures mentioned in such notification.

Power of Inspector to enter upon any land or premises.

5. Any Inspector may, after giving the prescribed notice, enter upon any land or premises situated in a notified area for the purpose of ascertaining—

(*i*) whether there is any insect pest, plant disease or noxious weed on such land or premises ; and

(*ii*) whether the preventive or remedial measures mentioned in the notification issued under section 3 have been carried out.

Notice to occupier to carry out preventive or remedial measures.

6. (*1*) If, on inspection of any land or premises under section 5, the Inspector finds that there is any insect pest, plant disease or noxious weed on such land or premises or that the preventive or remedial measures mentioned in the notification issued under section 3 have not been carried out, the Inspector may, subject to the general or special order of the Provincial Government, call upon the occupier of such land or premises, by notice in writing, to carry out such preventive or remedial measures within the time specified in such notice.

(*2*) Within seven days from the date of the service upon him of the notice under sub section (*1*), the occupier may prefer an appeal to the Collector or such other officer as the Collector may appoint in this behalf.

(*3*) On receipt of the appeal under sub-section (*2*) the Collector or other officer, as the case may be, may extend the time specified in the notice under sub-section (*1*) and shall, after giving the occupier an opportunity of being heard, pass such order on the appeal as he thinks fit.

(*4*) Every order passed under sub-section (*3*) shall be final.

Failure to comply with notice under section 6 and power of Inspector to carry out measures.

7. (*1*) If an occupier upon whom a notice has been served under sub-section (*1*) of section 6 does not comply with such notice within the time specified therein, or if an appeal has been preferred under sub-section (*2*) of section 6, does not comply with the order passed on such appeal, the Inspector may carry out the preventive or remedial measures mentioned in such notice or order.

(*2*) The costs of any preventive or remedial measures carried out under sub-section (*1*) shall be payable by the occupier and shall be recoverable from him as an arrear of land revenue.

(*3*) Any such occupier may, within thirty days from the date of the first demand of such costs from him, prefer an appeal to the Collector or to such other officer as the Collector may appoint in this behalf on the ground that—

(*i*) the costs include charges for items other than the cost of labour, material or use of implements, or

(*ii*) the charges for labour or material or use of implements are unreasonably high.

(*4*) On receipt of the appeal under sub-section (*3*), the Collector or other officer, as the case may be, shall, after giving the occupier an opportunity of being heard, pass such order thereon as he thinks fit.

(*5*) Every order passed under sub-section (*4*) shall be final.

Compensation for destruction of trees or plants.

8. (*1*) If, in carrying out any preventive or remedial measures under sub-section (*1*) of section 7, the Inspector destroys or causes to be destroyed—

(*a*) any tree which is infected with an insect pest or a plant disease, or

(*b*) any plants some or all of which are infected with insect pest or plant disease and which are grown so closely together that it is not practicable to treat each plant individually, or

(*c*) any plants or trees, which though not infected at the time with an insect pest or a plant disease, are, in the opinion of the Inspector, liable to such infection,

the Inspector shall give notice to the occupier of the land or premises on which such trees or plants were grown stating particulars of the trees or plants destroyed and his estimate of their value.

(*2*) When any tree or plant is destroyed under sub-section (*1*), the occupier shall be entitled to compensation determined in the manner provided in section 11.

Compensation for trees or plants destroyed by occupier.

9. If an occupier in carrying out any preventive or remedial measures, directed to be carried out by the notification issued under section 3 or the notice given under sub-section (*1*) of section 6, destroys any tree or plant in accordance with such direction, he shall be entitled to such compensation as he would have been entitled to under section 8 if such tree or plant had been destroyed by the Inspector.

Procedure for claims for compensation.

10. Every claim for compensation shall be made in writing to the Assessor within one month from the date of—

(*i*) the notice given under sub-section (*1*) of section 8, if the claim is made under the said section, or

(*ii*) the destruction of the tree or plant, as the case may be, if the claim is made under section 9.

Award of Assessor; Appeal.

11. (*1*) On receipt of any claim under section 10, the Assessor shall, subject to the provisions of sub-section (*2*) and after making an enquiry in the prescribed manner and taking such evidence as he thinks fit, fix the amount of compensation due to the occupier under the provisions of this Act and make an award for such amount.

(*2*) The amount of compensation shall—

(*a*) for every destroyed tree of the kind referred to in clause (*a*) of sub-section (*1*) of section 8, not exceed one-half of the value of the said tree;

(*b*) for every destroyed plant of the kind referred to in clause (*b*) of sub-section (*1*) of section 8, not exceed the three-fifths of its value; and

(*c*) for every destroyed plant or tree of the kind referred to in clause (*c*) of sub-section (*1*) of section 8, be its full value:

Provided that no compensation shall be payable for—

(*i*) any noxious weed destroyed;

(*ii*) any cotton plant destroyed in order to eradicate or prevent the introduction or reappearance of any insect pest or plant disease;

(*iii*) the destruction of trees and plants infected with any insect pest or plant disease which in the opinion of the Inspector contracted infection due to the negligence of the occupier in carrying out the preventive or remedial measures mentioned in the notification issued under section 3.

Explanation.—For the purposes of this section, value means the value of a tree or plant at the time of its destruction.

(*3*) If any amount is due from the occupier on account of costs incurred in carrying out the preventive or remedial measures under sub-section (*1*) of section 7, the whole or part of the amount of compensation awarded to him, as may be necessary, shall be set off against the amount of costs due from him.

(*4*) A copy of every award made by an Assessor shall be sent to the occupier to whom such compensation has been awarded and to the Inspector of the notified area concerned.

(*5*) The occupier or the Inspector, as the case may be, may, within 30 days from the date of receipt of a copy of the award under sub-section (*4*), prefer an appeal to the Collector against the award.

(*6*) On receipt of the appeal under sub-section (*5*), the Collector shall, after giving the occupier and the Inspector an opportunity of being heard, pass such order thereon as he thinks fit.

(*7*) Every order passed under sub-section (*6*) shall be final.

Duty of certain village officers to report appearance of insect pest, plant disease or noxious weed.

12. (*1*) If any insect pest, plant disease or noxious weed appears in any village adjoining a notified area, the village officers of such village shall forthwith report the fact to the Collector or such other officer as the Provincial Government may appoint in this behalf.

(*2*) The Collector or such other officer, as the case may be, shall on receipt of such report and after making such further inquiry as he may deem necessary forward it to the Provincial Government with his remarks thereon.

Penalty.

13. (*1*) Whoever removes any plant or tree in contravention of the directions contained in a notification issued under section 3 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*2*) Any occupier who fails to comply with a notice given under sub-section (*1*) of section 6 or with any order passed on appeal under sub-section (*3*) of section 6 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*3*) Whoever commits a breach of the provisions of any rule made under section 17 shall, on conviction, be punishable with fine which may extend to Rs. 25.

(*4*) Whenever any person is convicted under this Act, the Court may, in addition to the penalty imposed under this Act, order the destruction of any plant or tree of the kind referred in clause (*a*), (*b*) or (*c*) of sub-section (*1*) of section 8.

14. The Provincial Government may, by notification in the *Official Gazette*, appoint persons as Inspectors and Assessors for such local areas as may be specified in the notification. Appointment of Inspectors and Assessors.

15. (*1*) No suit, prosecution or legal proceedings shall lie against any person in respect of anything in good faith done or intended to be done under this Act. Bar of suit or other legal proceedings.

(*2*) No prosecution under this Act shall be commenced without the previous sanction of the Collector, nor after six months from the date of the commission of the alleged offence.

16. The powers conferred on the Provincial Government under this Act may, with the exception of the powers under sections 3 and 17, be delegated by the Provincial Government to any officer. Delegation of powers.

17. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following purposes, namely :—

(*i*) the manner of giving notice under section 5 ;

(*ii*) the manner of making of an enquiry under sub-section (*1*) of section 11 ; and

(*iii*) the mode of determining the value of trees and plants for the purposes of this Act.

(*3*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

Bom. XIV of 1941.

18. The Bombay Agricultural Pests and Diseases Act, 1941, is hereby repealed. Repal of Bom. X. of 1941.

BOMBAY ACT No. XLIV OF 1947.[1]

[THE BOARD OF INDIAN SYSTEMS OF MEDICINE (EXTENSION OF TERM) ACT, 1947.]

[*12th December 1947.*]

Amended by Bom. 75 of 1948.

An Act to provide for the extension of the term of office of the members of the Board of Indian systems of medicine, Bombay.

WHEREAS it is expedient to provide for the extension of the term of office of the members of the Board of Indian systems of medicine, Bombay; It is hereby enacted as follows :—

Short title and duration.

1. (*1*) This Act may be called the Board of Indian Systems of Medicine (Extension of Term) Act, 1947.

(*2*) It shall remain in force up to and inclusive of the [2][31st day of August] 1949.

Extension of term of office of members of Board of Indian systems of medicine, Bombay.

2. Notwithstanding anything contained in sub-section (*1*) of section 6 of the Bombay Medical Practitioners' Act, 1938, hereinafter called "the said Act", the term of office of the members of the Board of Indian systems of medicine, Bombay, which by reason of the provisions of the said sub-section would have expired in March 1948 is hereby extended up to and inclusive of the [3][31st day of August] 1949 which day for the purposes of the said Act shall be deemed to be the day of termination of office of the members and no elections or nominations shall be held or made to fill the vacancies of the said members on the expiry of the quinquennium in March 1948, notwithstanding anything contained in the said Act.

Bom. XXVI of 1938.

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 247: for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

[2] These figures and words were substituted for "15 day of March" by Bom. 75 of 1948, s. 2.

[3] These figures and words were substituted for "15th day of March" by Bom. 75 of 1948, s. 3

BOMBAY ACT No. XLVII OF 1947.[1]

[THE WASTE LANDS (CLAIMS) (BOMBAY REPEAL) ACT, 1947.]

[*18th December 1947.*]

An Act to repeal the Waste Lands (Claims) (Bombay Repeal) Act, 1943, and the Waste Lands (Claims) Act, 1863.

26 Geo. 5, Ch. 2. Bom. IX of 1943. XXIII of 1863.

WHEREAS in view of the provisions of sub-section (4) of section 93 of the Government of India Act, 1935, it is expedient to repeal the Waste Lands (Claims) (Bombay Repeal) Act, 1943, and the Wast Lands (Claims) Act, 1863; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Waste Lands (Claims) (Bombay Repeal) Act, 1947.

Repeal of Bom. IX of 1943 and Act XXIII of 1863.

Bom. IX of 1943. XXIII of 1863.

2. The Waste Lands (Claims) (Bombay Repeal) Act, 1943, and the Waste Lands (Claims) Act, 1863, are repealed :

XXIII of 1863. Bom. IX of 1943. XXIII of 1863.

Provided that in respect of any claim preferred or objection taken under the Waste Lands (Claims) Act, 1863, before the date of the coming into operation of the Waste Lands (Claims) (Bombay Repeal) Act, 1943, all the provisions of the Waste Lands (Claims) Act, 1863, shall be given effect to as if this Act had not been passed.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 222.

THE BOMBAY HABITUAL OFFENDERS RESTRICTION ACT, 1947.

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BOMBAY ACT No. LI OF 1947.[1]

[THE BOMBAY HABITUAL OFFENDERS RESTRICTION ACT, 1947.]

[*31st December 1947.*]

An Act to make provision for restricting the movements of habitual offenders in the Province of Bombay, for requiring them to report themselves and for placing them in settlements.

WHEREAS it is expedient to make provision for restricting the movements of habitual offenders in the Province of Bombay, for requiring them to report themselves and for placing them in settlements; It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Habitual Offenders Restriction Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

V of 1898.

(*1*) "Code" means the Code of Criminal Procedure, 1898;

Bom. XIII of 1924.

(*2*) "order of restriction" means an order made under this Act requiring a person other than a child as defined in the [2] Bombay Children Act, 1924—

(*a*) to restrict his movements to any area within the Province specified in the order, or

(*b*) to report himself at the times and at the places and in the manner specified in the order, or

(*c*) to do both;

(*3*) "order of settlement" means an order made under section 15 placing a person in a settlement established under the said section;

(*4*) "prescribed" means prescribed by rules made under this Act;

(*5*) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

Order of restriction against habitual offenders.

3. (*1*) In any case in which a Magistrate may under the provisions of section 110 of the Code require a person to show cause why he should not be ordered to execute a bond for his good behaviour, the Magistrate may in lieu of or in addition to so doing require such person to show cause why an order of restriction should not be made against him.

Joint proceedings and record.

(*2*) If the Magistrate in addition to requiring such person to show cause why he should not be ordered to execute a bond for his good behaviour requires him to show cause why an order of restriction should not be made against him, the proceedings in respect of the order of restriction may be taken jointly with the proceedings in respect of security and may be included in and form part of the same record.

Procedure in making order of restriction.

4. Whenever a Magistrate acting under section 3 deems it necessary to require a person to show cause why an order of restriction should not be made against him, he shall follow, as nearly as may be, the procedure laid down in sections 112, 113, 114, 115 and 117 of the Code for an order requiring security for good behaviour:

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 296.

[2] See now the Bombay Children Act, 1948 (Bom. 71 of 1948).

Provided that the order in writing referred to in section 112 of the Code shall, in addition to setting forth the substance of the information received, state the term not exceeding three years during which the order of restriction shall be in force although it need not state whether the order of restriction shall be an order requiring him to restrict his movements to any area or requiring him to report himself at any place or requiring him to do both.

Issue of warrant in lieu of or in addition to summons.

5. The provisions of section 90 of the Code shall be applicable in respect of any proceedings under this Act as if they were proceedings under the Code.

Discharge of person informed against.

6. If upon an enquiry made in accordance with the preceding sections, the Magistrate is of opinion that it is not necessary to make an order of restriction against the person in respect of whom the enquiry is made, he shall make an entry to that effect on the record, and if he does not order the execution of a bond for good behaviour he shall, if such person is in custody for the purposes of such enquiry only, release him or if such person is not in custody, discharge him.

Making of order of restriction.

7. If upon an inquiry as aforesaid, the Magistrate is of opinion that it is necessary to make an order of restriction against the person in respect of whom the inquiry is made, the Magistrate shall make an order accordingly:

Provided that the Magistrate shall not make an order of restriction against any person against whom he makes an order under section 118 of the Code requiring such person to execute a bond for his good behaviour:

Provided further that no order of restriction shall be made for a term exceeding three years or for a term longer than that specified in the order referred to in the proviso to section 4.

Restriction order under section 123 (*3*) of the Code.

8. (*b*) A Court acting under sub-section (*3*) of section 123, or an Appellate Court acting under section 406, of the Code, may in lieu of the order requiring any person to give security under section 110 of the Code make an order of restriction for any period not exceeding that for which the security was required to be given.

Restriction order against convicted offenders.

(*2*) In any case in which a Court or Magistrate is empowered to make an order against any convicted person under section 565 of the Code such Court or Magistrate, may, if it or he thinks fit, at the time of passing sentence on such person and in lieu of making an order as provided in the said section make an order of restriction against such person for a period not exceeding three years from the date of the expiration of such sentence.

(*3*) If such conviction is set aside on appeal or otherwise, the order of restriction shall become void.

(*4*) No order of restriction shall be made against any person under this section unless he has been given an opportunity of showing cause why such order should not be made.

Particulars to be specified in restriction order.

9. Every order of restriction made under this Act shall state whether the person against whom the order is made is required to restrict his movements or is required to report himself or is required to do both. The order shall also specify the area and the nature of the restrictions imposed and the places, the times, and the manner of report, as the case may be. The order shall also contain such other particulars as may be prescribed.

10. (*1*) No order shall be made restricting the movements of any person to any particular area unless the Court or Magistrate making the order is satisfied that such person has adequate means of earning his livelihood within such area or ordinarily resides in such area. Residence or means of livelihood within area of restriction.

(*2*) Before making an order restricting the movements of any person to any area, the Court or Magistrate shall record and consider any objection which such person may urge in regard to the area to which his movements are proposed to be restricted.

11. (*1*) Where under an order of restriction made against him any person's movements have been restricted to any area, if the said area is Greater Bombay or a part thereof the Chief Presidency Magistrate, or if the said area is a district or part of a district the District Magistrate, may at any time, on his own motion or on an application of such person and for sufficient reasons to be recorded in writing, make an order cancelling or modifying the order of restriction. Power to cancel or modify order of restriction.

(*2*) Such order of modification may provide—

(*a*) that the said person shall report himself at the times and at the places and in the manner specified in the order; or

(*b*) that he shall restrict his movements either to the area in which he ordinarily resides or to any other area in which the Magistrate is satisfied he has reasonable prospects of earning his livelihood.

(*3*) The Provincial Government may authorize any Presidency Magistrate or any Sub-Divisional Magistrate to make the order of modification referred to in sub-section (*2*) in respect of a person within his jurisdiction.

12. Where an order requiring security for good behaviour has been made against any person under the Code or an order has been made against any person under section 565 of the Code, whether before or after the coming into operation of this Act, the Chief Presidency Magistrate in Greater Bombay and elsewhere the District Magistrate may, at any time, before the period of security or the term of the order under section 565, as the case may be, has expired make in lieu thereof an order of restriction: Power to substitute restriction order for bond for good behaviour or for order for notifying address.

Provided that—

(*1*) the period of the order of restriction shall not exceed the unexpired portion of the period of security or the term of the order under section 565; and

(*2*) no order of restriction shall be made against any person under this section unless he has been given an opportunity of showing cause why such order should not be made.

13. An appeal shall lie against an order of restriction— Appeal.

(*i*) to the District Magistrate if such order has been made by a Magistrate subordinate to him;

(*ii*) to the Court of Session if such order has been made by a District Magistrate;

(*iii*) to the High Court in any other case.

14. Subject to the provisions of section 13, the provisions of the Code shall apply to appeals under this Act. Code to apply to appeals.

Power to establish settlements and place habitual offenders therein.

15. (*1*) For the purposes of this Act, the Provincial Government may establish industrial, agricultural or reformatory settlements.

(*2*) The Provincial Government or any officer authorized by the Provincial Government in this behalf may in lieu of an order of restriction made against any person under this Act make an order directing such person to be placed in a settlement established under sub-section (*1*) for a period not exceeding the period for which the order of restriction has been made.

(*3*) The Provincial Government or the officer authorized under sub-section (*2*) may at any time, by general or special order, direct any person who may be in any settlement,

(*a*) to be discharged, or

(*b*) to be transferred to some other settlement.

Arrest of person contravening order of restriction or of settlement.

16. (*1*) Whoever being a person against whom an order of restriction or an order of settlement has been made—

(*a*) is found beyond the limits of the settlement or the area to which his movements have been restricted, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass, or

(*b*) escapes from a settlement, may be arrested without warrant by any police-officer or a police-patel, and may be taken before a Magistrate, who, on proof of the facts, shall order him to be removed to such area or to such settlement, as the case may be, there to be dealt with in accordance with this Act or any rules made thereunder.

(*2*) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section :

Provided that an order from the Provincial Government or from the Inspector-General of Prisons shall not be necessary for the removal of such persons.

Duties of police-patel and owners or occupiers of land to give information in certain cases.

17. (*1*) Every police-patel of a village in which any person against whom an order of restriction or order of settlement has been made, and every owner or occupier of land on which any such person resides, and the agent of any such owner or occupier, shall forthwith communicate to the officer-in-charge of the nearest police station any information which he may obtain of the departure of any person from such village or from such land, as the case may be.

(*2*) Every police-patel of a village, and every owner or occupier of land and the agent of any such owner or occupier, shall forthwith communicate to the officer-in-charge of the nearest police station any information which he may obtain of the arrival at such village or on such land, as the case may be, of any person against whom an order of restriction or order of settlement is reasonably suspected of having been made.

Penalties for breach of rules.

18. (*1*) Whoever, being a person against whom an order of restriction or an order of settlement has been made, contravenes a rule made under clauses (*i*), (*ii*), (*iii*) and (*iv*) of sub-section (*2*) of section 22 shall, on conviction, be punishable with imprisonment for a term which may extend,—

(*a*) on a first conviction, to one year,

(*b*) on a second conviction, to two years, and

(*c*) on any subsequent conviction, to three years,

or with fine which may extend to five hundred rupees, or with both.

(*2*) Whoever, being a person against whom an order of restriction or an order of settlement has been made, contravenes any other rule made under section 22 shall be punishable—

(*a*) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; and

(*b*) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(*3*) In computing the period for which an order of restriction or of settlement shall remain in force, any period of imprisonment undergone in execution of a sentence passed under sub-section (*1*) or (*2*) shall be excluded.

(*4*) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence as defined in the Code may be arrested without a warrant by any officer-in-charge of a police-station or by any police-officer not below the rank of a Sub-Inspector.

Enhanced punishment for certain offences by persons against whom order of restriction or order of settlement has been made after previous conviction.

19. (*1*) Whoever, being a person against whom an order of restriction or an order of settlement has been made and having been convicted of any of the offences under the Indian Penal Code specified in the Schedule, is convicted of the same or of any other offence specified in the Schedule, shall, on conviction, be punishable with transportation for life or with imprisonment of either description for a term which may extend to ten years.

XLV of 1860.

(*2*) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law.

XLV of 1860.

Punishment for persons against whom restriction order or settlement order has been made, found under suspicious circumstances.

20. Whoever, being a person against whom an order of restriction or an order of settlement has been made, is found in any place under such circumstances as to satisfy the Court,—

(*a*) that he was about to commit, or aid in the commission of, theft or robbery, or

(*b*) that he was making preparation for committing theft or robbery,

shall, on conviction, be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees.

Penalty for breach of duties by police-patel, owners or occupiers of land or their agents.

21. Any police-patel, owner or occupier of land, or the agent of any such owner or occupier, who fails to comply with the requirements of section 17, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

XLV of 1860.

Rules.

22. (*1*) The Provincial Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(*i*) the areas to which the movements of any person may be restricted and the nature of the restrictions to be observed by such persons;

(*ii*) the times and places at which and the manner in which such persons shall report themselves;

(*iii*) the conditions as to holding passes under which such persons may be permitted to leave the area to which their movements have been restricted or the settlement in which they have been settled;

(*iv*) the conditions to be inserted in any such pass in regard to—

(*a*) the place to which the holder of the pass may or may not go;

(*b*) the persons before whom from time to time he shall be bound to present himself;

(*c*) the period during which he may be absent;

(*v*) any other particulars deemed necessary to be included in an order of restriction;

(*vi*) the circumstances in which persons against whom an order of restriction or an order of settlement has been made shall be required to possess and produce for inspection certificates of identity, and the manner in which such certificates shall be granted;

(*vii*) the management, control and supervision of industrial, agricultural or reformatory settlements;

(*viii*) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour;

(*ix*) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or otherwise offending against the rules for the time being in force, shall be subject and the periodical visitation of such settlement.

Criminal Tribes Act to cease to extend to Province of Bombay.

23. The Criminal Tribes Act, 1924, shall cease to extend to the Province of Bombay with effect from such date not being later than 2 years from the date of the coming into operation of this Act as may be notified in that behalf by the Provincial Government in the *Official Gazette*. VI of 1924.

Savings.

24. Nothing in this Act shall affect the powers of any competent authority under any other law for the time being in force to make an order of restriction or detention and any order of restriction or of settlement passed under this Act in so far as it may conflict with any order made by a competent authority under such law shall be deemed to be inoperative while the order under such law remains in force.

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THE DISPOSITIONS OF PROPERTY (BOMBAY) VALIDATION ACT, 1947.

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SCHEDULE.

BOMBAY ACT No. LIV OF 1947.[1]

[THE DISPOSITIONS OF PROPERTY (BOMBAY) VALIDATION ACT, 1947.]

[*16th January 1948.*]

An Act to validate certain dispositions of property in the Province of Bombay.

WHEREAS it is expedient to validate certain dispositions of property in the Province of Bombay; It is hereby enacted as follows :—

1. This Act may be called the Dispositions of Property (Bombay) Validation Act, 1947. Short title.

2. This Act shall apply to all trusts made, and to all wills and other testamentary dispositions of persons who have died, before the first day of January one thousand nine hundred and forty-five— Application of Act.

(*a*) where such trusts, wills or testamentary dispositions relate to immovable property situate within the Province of Bombay;

(*b*) where such trusts, wills or testamentary dispositions relate to property of every description other than immovable property and are declared, executed or made by a settlor or testator, as the case may be, in the Province of Bombay, notwithstanding anything to the contrary contained in Part II of the Indian Succession Act, 1925. XXXIX of 1925.

3. (*1*) The following provisions of law shall not apply and shall be deemed never to have applied to the dispositions of property contained in or made by the instruments mentioned in section 2, namely, (*a*) section 13 of the Transfer of Property Act, 1882, and (*b*) section 113 of the Indian Succession Act, 1925. Validation of certain dispositions. IV of 1882. XXXIX of 1925.

(*2*) To the dispositions of property contained in or made by the instruments mentioned in section 2 the enactments mentioned in the first column of the Schedule to this Act shall apply, and shall be deemed to have always applied, with the omissions and modifications specified in the second column of the Schedule.

4. Nothing in this Act shall be deemed to affect or prejudice in any way any right, title or interest accrued to any person under a final decree or order of a competent court or acquired by any person for valuable consideration before the coming into force of this Act. Saving.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 386.

SCHEDULE.

Enactments.	Omissions and modifications.
Section 15 of the Transfer of Property Act, 1882.	For "sections 13 and" substitute "section".
Section 16 of the Transfer of Property Act, 1882.	For "sections 13 and" substitute "section".
Clause (*b*) of section 3 of the Hindu Disposition of Property Act, 1916.	Omit "113,".
Section 115 of the Indian Succession Act, 1925.	Omit "section 113 or".
Section 116 of the Indian Succession Act, 1925.	For "sections 113 and" substitute "section".
Schedule III to the Indian Succession Act, 1925.	Omit "113,".
Clause (5) under the heading "*Restrictions and modifications in application of foregoing sections*" in Schedule III to the Indian Succession Act, 1925.	Omit "one hundred and thirteen,".

THE BOMBAY WAREHOUSES ACT, 1947.

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BOMBAY ACT No. LVI OF 1947.[1]

[THE BOMBAY WAREHOUSES ACT, 1947.]

[*19th January 1948.*]

An Act to provide for the regulation and licensing of warehouses in the Province of Bombay.

WHEREAS it is expedient to encourage the establishment of private warehouses and make provision for their proper supervision and control; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Warehouses Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

Bom. VII of 1925.

(*a*) "Co-operative Society" means a society registered or deemed to be registered under the provisions of the Bombay Co-operative Societies Act, 1925.

(*b*) "Depositor" means a person or firm which tenders goods to the warehouseman for storing in his warehouse and includes any person who lawfully holds the receipt issued by the warehouseman in respect of the goods and derives title to it by endorsement or transfer from the depositor or his lawful transferee.

Bom. XXII of 1939.

(*c*) "Goods" means agricultural produce as defined in the Bombay Agricultural Produce Markets Act, 1939, but does not include the produce of animal husbandry.

(*d*) "Licence" means a licence granted under section 5 or renewed under section 7.

(*e*) "Prescribed" means prescribed by rules made under this Act.

(*f*) "Prescribed authority" means the authority empowered by the Provincial Government to carry out the duties under this Act.

(*g*) "Receipt" means a warehouse receipt, in the form prescribed, issued by a warehouseman to a depositor depositing goods in a warehouse.

(*h*) "Warehouse" means a building, structure or other protected enclosure which is used or may be used for the purpose of storing goods.

(*i*) "Warehouseman" means a person or firm holding a licence for issuing under section 27, receipts for goods stored in his warehouse.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 257.

CHAPTER II.

LICENSING OF WAREHOUSES.

Prohibition of carrying on business as warehouseman without licence.

3. Subject to the provisions of section 11, no person or firm shall without a licence carry on the business of a warehouseman or represent or hold himself out as a warehouseman.

Application.

4. Every person or firm desirous of carrying on the business of a warehouseman shall take out a licence by making an application to the prescribed authority.

Grant of licence.

5. The prescribed authority may on payment of the prescribed fee grant a licence to such person or firm for the conduct of his business in accordance with the terms of the licence and the provisions of this Act and the rules made thereunder.

Conditions for grant of licence.

6. Before granting a licence the prescribed authority shall satisfy itself—

(*i*) that the warehouse is suitable for the proper storage of the particular goods for which a licence has been applied for,

(*ii*) that the applicant is competent to conduct such a warehouse,

(*iii*) that the applicant furnishes to the prescribed authority such security and in such manner as may be prescribed,

(*iv*) that there is no other reason for which the applicant may in the opinion of the prescribed authority be deemed to be disqualified, and

(*v*) that the applicant fulfils any other condition which the Provincial Government may, by notification in the *Official Gazette*, specify in this behalf.

Term and renewal of licence.

7. Every licence shall be valid for the prescribed period and may on the expiry of such period be renewed by the prescribed authority on an application made by the warehouseman in that behalf and on payment of the prescribed fee.

Licences when to be revoked.

8. Every licence shall be liable to be revoked by the prescribed authority for reasons to be stated in writing in the order of revocation and in particular if the warehouseman—

(*a*) has been adjudged an insolvent;

(*b*) has parted in whole or in part with his control over the licensed warehouse;

(*c*) has ceased to conduct such licensed warehouse;

(*d*) has made exorbitant or unreasonable charges for services rendered by him;

(*e*) has in any manner become incompetent to conduct the business of a warehouseman; or

(*f*) has contravened any of the terms of the licence or any of the provisions of this Act and the rules made thereunder or any other condition which the Provincial Government may, by notification in the *Official Gazette*, specify.

Notice to be given before revocation of licence and suspension and revocation of licence.

9. (*1*) Before revoking a licence the prescribed authority shall give notice to the warehouseman specifying the charges against him and calling upon him to show cause why the licence should not be revoked.

(*2*) After considering the explanation, if any, offered by the warehouseman, the prescribed authority may revoke the licence or pass such orders as it deems just.

(*3*) The prescribed authority may suspend the licence of a warehouseman pending the decision on the enquiry referred to in sub-sections (*1*) and (*2*).

10. (*1*) An appeal shall lie to the Collector against an order of revocation of a licence within sixty days from the date of such order. Appeals and revision.

(*2*) On receipt of an appeal under sub-section (*1*), the Collector shall, after giving the warehouseman and the prescribed authority an opportunity of being heard, pass such order thereon as he thinks fit.

(*3*) The Provincial Government may at any time call for and examine the record of any proceedings before the prescribed authority or the Collector relating to suspension or revocation of a licence for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed therein, and as to the regularity of such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit.

(*4*) Every order passed by the prescribed authority under section 9, subject to an appeal or revision as provided in this section, and every order passed by the Collector in appeal, subject to such revision, and every order passed by the Provincial Government in revision shall be final and shall not be liable to be questioned in any court of law.

11. When a licence expires or is suspended or revoked, the warehouseman shall cease to carry on the business of a warehouseman and shall return the licence to the prescribed authority : Return of licence.

Provided that the prescribed authority shall after such expiration, suspension or revocation give such reasonable time as it thinks fit to such warehouseman to enable him to wind up the business and notwithstanding anything contained in section 3, the warehouseman may carry on the business of a warehouseman during the said time.

12. Where a licence granted to a warehouseman is lost or destroyed, the prescribed authority may issue a duplicate thereof on an application made in that behalf by the warehouseman and on payment of the prescribed fee. Duplicate licences.

CHAPTER III.

Duties of a Warehouseman.

13. Every warehouseman shall take such care of the goods in his custody as a man of ordinary prudence would take of his own goods under similar circumstances and conditions. Reasonable care of goods stored.

14. (*1*) Every warehouseman shall keep his warehouse in such condition as may be prescribed and in accordance with the terms of the licence in order to prevent loss, damage or injury to the goods stored in the warehouse. Precautions against damage or injury to goods.

(*2*) No warehouseman shall accept for storing in his warehouse goods which are contaminated or infected by worms and pests, and which are likely to cause damage to other goods stored in the warehouse.

15. Every warehouseman shall keep in his warehouse the goods of one depositor so far separate from the goods of other depositors and from other goods of the same depositor for which a separate receipt has been issued as to permit at all times the identification and delivery of the goods deposited : Preservation of identity of goods.

Provided that where standardised and graded goods are stored in a warehouse, subject to any agreement between the warehouseman and depositor, the same variety of goods belonging to different depositors may be mingled together by the warehouseman and each depositor will be entitled only to his portion of the goods according to weight or quantity, as the case may be, as shown in his receipt.

Goods deteriorating in warehouses and their disposal.

16. (*1*) Whenever goods stored in a warehouse deteriorate or are about to deteriorate from causes beyond the control of the warehouseman, he shall forthwith give notice of such deterioration to the depositor asking him to take delivery of the goods immediately on surrendering the receipt duly discharged and on payment to the warehouseman of all dues. If the depositor does not comply with the notice within a reasonable time, the warehouseman may cause such goods to be removed from his warehouse and sold by public auction at the cost and risk of the depositor.

(*2*) Any person interested in any goods or the receipt covering such goods stored in a warehouse may, in writing, notify the warehouseman of the fact and nature of his interest in the goods and the warehouseman shall keep a record thereof. If the person requests in writing that he be notified regarding the condition of the goods and agrees to pay the charges for such notification, the warehouseman shall notify such person accordingly.

Delivery of goods.

17. Every warehouseman in the absence of any reasonable or lawful excuse shall, without unnecessary delay, deliver the goods stored in his warehouse to the depositor on demand made by him and on surrender of the warehouse receipt duly discharged and on payment of the charges due to the warehouseman. Subject to any agreement between the warehouseman and the depositor, the depositor may take partial delivery of the goods stored in the warehouse.

Accounts, books, etc., to be maintained and kept in safe place by warehouseman.

18. Every warehouseman shall keep and maintain in a place of safety such books, accounts and records as may be prescribed.

Insurance of goods in warehouses.

19. (*1*) Every warehouseman shall insure in such manner as may be prescribed the goods stored in his warehouse against loss or damage by fire, floods, theft or any other accident.

(*2*) Every warehouseman shall be entitled to recover from the depositor at the rate prescribed the charges for insurance in respect of the depositor's goods before delivery thereof and shall have a lien on the said goods in respect of such charges.

Discrimination prohibited.

20. Every warehouseman shall receive for storage therein so far as its capacity permits any goods of the kind customarily stored by him therein, which may be tendered to him in a suitable condition for storing in the usual manner in the ordinary and usual course of business without making any discrimination between persons desiring to avail themselves of the facilities of his warehouse :

Provided that a warehouseman may grant such concessions to a co-operative soceity as may be prescribed.

Warehouseman other than co-operative society not to lend money against goods in warehouse.

21. Notwithstanding anything contained in any law, no warehouseman other than a co-operative society shall, either on his own account or that of others, deal in or lend money on goods which he receives for storage in his warehouse.

CHAPTER IV.

Inspection and Classification of Goods.

Inspection.

22. The prescribed authority may inspect or cause to be inspected, examine, or cause to be examined the warehouse of a warehouseman, its machinery, equipment, goods stored therein and the account books and records at any time during business hours for the purpose of satisfying itself that the requirements of this Act and the rules made thereunder are complied with.

Licensed weighers, samplers and classifiers.

23. (*1*) The prescribed authority may issue licences to qualified and competent persons entitling them to act as weighers, samplers and classifiers of any goods stored or to be stored in a warehouse and to issue certificates as to weight, quality or grade of the goods which they have examined.

(*2*) The certificates issued by weighers, samplers and classifiers as to weight, quality or grade of the goods stored in the warehouse shall, subject to any order in appeal preferred by either of them to the Board of Arbitrators, be binding on the warehouseman and depositor.

(*3*) The prescribed authority may appoint a Board of Arbitrators to decide complaints against weighers, samplers and classifiers or warehouseman relating to weight, quality or grade of the goods stored in the warehouse. The decision of the Board of Arbitrators shall be final and shall not be liable to be questioned in a court of law.

24. Subject to rules made in this behalf every licence granted to a weigher, sampler or classifier shall be liable to be suspended or revoked by the prescribed authority. Suspension or revocation of licences.

25. Whenever a licence granted to a weigher, sampler or classifier expires, or is suspended or revoked, he shall return it to the prescribed authority. Return of licences.

26. No person who is not licensed under this Chapter shall represent or hold himself out as a licensed weigher, sampler, or classifier. Prohibition of unlicensed weighers, classifiers, etc.

CHAPTER V.

Warehouse Receipts.

27. Every warehouseman shall issue a receipt in the prescribed form containing full particulars in respect of the goods stored in his warehouse by each depositor. Issue of receipts.

28. A receipt issued by a warehouseman shall, unless otherwise specified on the receipt, be transferable by endorsement and shall entitle its lawful holder to receive the goods specified in it on the same terms and conditions on which the person who originally deposited the goods would have been entitled to receive them. Receipt transferable by endorsement.

29. In case a receipt is lost or destroyed, a warehouseman shall issue a duplicate thereof to the depositor on an application made by him in that behalf. The duplicate receipts shall be issued under such conditions as may be prescribed. Duplicate receipts.

CHAPTER VI.

Miscellaneous.

30. (*1*) If a warehouseman contravenes any of the conditions of his licence or fails to comply with or acts in contravention of any provision of this Act,— Security amount to be forfeited and recovered as arrear of land revenue.

(*a*) the amount of security deposited by him under a bond executed by him under the provisions of this Act shall be liable to be forfeited ; and

(*b*) the amount due under such bond shall be recoverable from him or from his sureties or their heirs or legal representatives as an arrear of land revenue.

(*2*) The Provincial Government may make payment out of the amount so forfeited or recovered to any person who may have sustained loss by reason of the warehouseman failing to comply with, or acting in contravention of, any provision of this Act.

31. (*1*) Whoever fails to comply with, or acts in contravention of, any provision of this Act, shall, on conviction, be punishable— Penalty.

(*a*) in the case of contravention of the provisions of section 3 or 21, with simple imprisonment which may extend to six months and fine which may extend to Rs. 1,000, and

(*b*) in any other case, with fine which may extend to Rs. 1,000.

(*2*) Where a person committing an offence under sub-section (*1*) is a company, or other body corporate, or an association of persons (whether incorporated or not), every director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

32. Where any licence is suspended or cancelled under this Act, no person shall be entitled to any compensation or the refund of any fee paid in respect thereof. No compensation for suspension or cancellation of licence.

Power of Provincial Government to delegate its powers.

33. The Provincial Government may delegate to any officer or authority subordinate to it any of the powers conferred on it by or under this Act.

Rules.

34. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely :—

(*a*) the authority empowered to carry out the duties under this Act ;

(*b*) the form of receipt under clause (*g*) of section 2 ;

(*c*) the form of application for taking out a licence under section 4, for its renewal under section 7 and for the issue of a duplicate licence under section 12 ;

(*d*) the fee for grant of a licence and the terms of the licence in accordance with which the business of a warehouseman shall be conducted under section 5 and the period for which the licence shall be valid under section 7 ;

(*e*) the amount of security and the manner of furnishing the same (including the form of bond) under clause (iii) of section 6 ;

(*f*) the fee for the renewal of a licence under section 7 and for the issue of a duplicate under section 12 ;

(*g*) the conditions on or under which a licence may be renewed and a duplicate thereof issued ;

(*h*) the condition in which a warehouse shall be kept under sub-section (*1*) of section 14 ;

(*i*) the books, accounts and records to be kept and maintained under section 18 ;

(*j*) the manner in which goods shall be insured under sub-section (*1*) of section 19 ;

(*k*) the rates at which the charges for insurance shall be recoverable under sub-section (*2*) of section 19 ;

(*l*) the concessions which may be granted to a co-operative society under section 20 ;

(*m*) the qualifications of, and grant of licences to weighers, samplers and classifiers, the conditions on which and the period for which the licences may be granted to them, the form of certificates to be issued by them, the renewal of their licences, the conditions on which duplicate licences may be issued, and the conditions under which the licences may be suspended or revoked for the purposes of sections 23 and 24 ;

(*n*) the conditions under which a duplicate receipt may be issued under section 29 ;

(*o*) the publication of the grant, suspension and revocation of licences and the list of warehousemen and their warehouses ;

(*p*) the charges to be made by a warehouseman for storing goods in his warehouse ;

(*q*) the manner of giving notices under this Act ;

(*r*) the manner of conducting a public auction for the sale of goods deteriorating or about to deteriorate in a warehouse and accounting for the proceeds of such sales by a warehouseman ;

(*s*) the classification of goods stored by a warehouseman ;

(*t*) the standard weights and measures to be used by a warehouseman ;

(*u*) the procedure to be followed in proceedings before the Board of Arbitrators and the mode of executing their awards ;

(*v*) generally for the efficient conduct of the business of a warehouseman.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947.

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SCHEDULES I TO III.

BOMBAY ACT No. LVII OF 1947.[1]

[THE BOMBAY RENTS, HOTEL AND LODGING HOUSE RATES CONTROL ACT, 1947.]

[*19th January 1948.*]

Amended by Bom. 36 of 1948.
,, ,, ,, 3 of 1949.

An Act to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions.

WHEREAS it is expedient to amend and consolidate the law relating to the control of rents and repairs of certain premises, of rates of hotels and lodging houses and of evictions; It is hereby enacted as follows:—

PART I.

Preliminary.

1. This Act may be called the Bombay Rents, Hotel and Lodging House Rates Control Act, 1947. Short title.

2. (*1*) Parts I and IV of this Act shall extend to the whole of the Province of Bombay. Extent.

(*2*) Parts II and III shall extend respectively to the areas specified in Schedules I and II to this Act and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, extend to any other area any or all of the provisions of Part II or Part III or of both.

(*4*) The Provincial Government may, at any time by like notification, direct that any or all of the provisions of Part II or Part III or of both, as the case may be, shall cease to extend to such area and on such date as may be specified in the notification; and on that date the said provisions shall cease to be in force in such area.

3. (*1*) This Act shall come into operation on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf. Commencement and duration.

(*2*) It shall remain in force upto and inclusive of the 31st day of March 1950:

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

Bom. I of 1904. (*3*) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

4. (*1*) This Act shall not apply to any premises belonging to the Government or a local authority or apply as against the Government to any tenancy or other like relationship created by a grant from the Government in respect of premises taken on lease or requisitioned by the Government; but it shall apply in respect of premises let to the Government or a local authority. Exemptions.

(*2*) The Provincial Government may direct that all or any of the provisions of this Act shall not apply to premises used for a public purpose of a charitable nature.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 364.

Definitions.

5. In this Act unless there is anything repugnant to the subject or context—

(*1*) "fair rate" means the rate fixed under section 33 and includes the rate as revised under section 34;

(*2*) "hotel or lodging house" means a building or part of a building where lodging with or without board or other service is provided for a monetary consideration;

(*3*) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person not being a tenant who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sub-let any premises;

(*4*) "legal representative" means a legal representative as defined in the Code of Civil Procedure, 1908, and includes also, in the case of joint family property, the joint family of which the deceased person was a member. V of 1908.

(*5*) "manager of a hotel" includes any person in charge of the management of a hotel;

(*6*) "owner of a lodging house" includes any person who receives or is entitled to receive, whether on his own account or on behalf of himself and others or as an agent or trustee, any monetary consideration from any person on account of board, lodging or other service;

(*7*) "permitted increase" means an increase in rent permitted under the provisions of this Act;

(*8*) "premises" means—

(*a*) any land not being used for agricultural purposes,

(*b*) any building or part of a building let separately (other than a farm building) including—

(i) the garden, grounds, garages and out-houses, if any, appurtenant to such building or part of a building,

(ii) any furniture supplied by the landlord for use in such building or part of a building,

(iii) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,

but does not include a room or other accommodation in a hotel or lodging house;

(*9*) "prescribe" means prescribe by rules and prescribed shall be construed accordingly;

(*10*) "standard rent" in relation to any premises means—

(*a*) where the standard rent is fixed by the Court and the Controller respectively under the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, such standard rent; or Bom. XVI of 1939. Bom. VII of 1944.

(*b*) where the standard rent is not so fixed,—

subject to the provisions of section 11,

(*i*) the rent at which the premises were let on the first day of September 1940, or

(*ii*) where they were not let on the first day of September 1940, the rent at which they were last let before that day, or

(*iii*) where they were first let after the first day of September 1940, the rent at which they were first let, or

(*iv*) in any of the cases specified in section 11, the rent fixed by the Court;

(*11*) "tenant" means any person by whom or on whose account rent is payable for any premises and includes—

(*a*) such sub-tenants and other persons as have derived title under a tenant before the coming into operation of this Act,

(*b*) any person remaining, after the determination of the lease, in possession, with or without the assent of the landlord, of the premises leased to such person or his predecessor who has derived title before the coming into operation of this Act,

(*c*) any member of the tenant's family residing with him at the time of his death as may be decided in default of agreement by the Court.

PART II.

Residential and other premises.

Application.

6. (*1*) In areas specified in Schedule I, this Part shall apply to premises let for residence, education, business, trade [1][or] storage [2][* * *]:

[3][Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that in any of the said areas, this Part shall cease to apply to premises let for any of the said purposes.]

[4][(*1A*) The Provincial Government may, by notification in the *Official Gazette*, direct that in any of the said areas this Part shall apply to premises let for any other purpose.]

(*2*) In areas to which this Part is extended under sub-section (*3*) of section 2, it shall apply to premises let for such of the purposes referred to [5][in sub-section (*1*) or notified under sub-section (*1A*)] or let for such standard rent as the Provincial Government may, by notification in the *Official Gazette*, specify.

Rent in excess of standard rent illegal.

7. Except where the rent is liable to periodical increment by virtue of an agreement entered into before the first day of September 1940, it shall not be lawful to claim or receive on account of rent for any premises any increase above the standard rent, unless the landlord was, before the coming into operation of this Act, entitled to recover such increase under the provisions of the Bombay Rent Restriction Act, 1939, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, or is entitled to recover such increase under the provisions of this Act.

Bom. XVI of 1939.

Bom. VII of 1944.

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[1] The word "or" was inserted by Bom. 36 of 1948, s. 2 (*a*).

[2] The words "or any other purpose notified in the Official Gazette by the Provincial Government" were deleted, *ibid*, s. 2 (*a*) (*ii*).

[3] This proviso was added, *ibid*, s. 2 (*b*).

[4] This sub-section was inserted, *ibid*, s. 2 (*c*).

[5] These words were substituted for "in, or notified under sub-section (*1*)", *ibid.*, s. 2 (*d*).

Cases where rent to be deemed and not to be deemed to be increased.

8. (*1*) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are on the whole less favourable to the tenant than the previous terms, the rent shall be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

(*2*) Where, as the result of any alteration of the terms of the tenancy, the terms on which any premises are held are not on the whole less favourable to the tenant than the previous terms, the rent shall not be deemed to be increased for the purposes of this Part whether the sum payable as rent is increased or not.

Increase in rent on account of improvement, etc., excepted.

9. A landlord shall be entitled to make such increase in the rent of the premises, as may be reasonable, for any improvement or structural alteration of the premises which has been made with the consent of the tenant given in writing; and such increase shall not be deemed to be an increase for the purposes of section 7.

Explanation.—In this section improvements and alterations do not include the repairs which the landlord is bound to make under sub-section (*1*) of section 23.

Increase in rent on account of payment of rates, etc., excepted.

10. Where a landlord is required to pay to a local authority in respect of any premises any rate, cess or tax imposed or levied for the purposes of such authority, he shall be entitled to make an increase in the rent of the premises by an amount not exceeding the increase paid by him [1][by way of such rate, cess or tax over the amount paid] in the period of assessment which included the date of the coming into operation of this Act [2][or the date on which the premises were first let, whichever is later,] and such increase in rent shall not be deemed to be an increase for the purposes of section 7.

Increase in rent on account of payment of increased rates, etc. after 31st March 1949 not permitted in certain areas.

[3][**10A.** Notwithstanding anything contained in section 10,—

(*1*) if in the City of Bombay the general tax levied under section 143 of the City of Bombay Municipal Act, 1888, or in any other area specified in Schedule III to this Act a rate or tax on buildings, houses or lands or a rate or tax in the form of such rate or tax on buildings, houses or lands levied under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, or the Cantonments Act, 1924, or the Bombay Village Panchayats Act, 1933, as the case may be, is increased after the 31st day of March 1949, a landlord shall not, in respect of any premises situated in the City of Bombay or in any of the areas specified in the said Schedule, as the case may be, and let on or before the said date, be entitled to make any further increase in the rent of the said premises on account of the payment by him of such increase in the rate or tax; Bom. III of 1888. Bom. XVIII of 1925. Bom. III of 1901. II of 1924. Bom. VI of 1933.

(*2*) a landlord shall not be entitled to make any increase in the rent of any premises situated in the City of Bombay or in any of the areas specified in the said Schedule and let after the 31st day of March 1949 on account of the payment by him of any increase in such rate or tax;

(*3*) the Provincial Government may, by notification published in the *Official Gazette*, direct that in any area other than the City of Bombay or those specified in Schedule III, a landlord shall not be entitled to make any increase in

[1] These words were substituted for the words "in such rate, cess or tax" by Bom. 36 of 1948, s. 3(*a*).
[2] These words were inserted, *ibid*, s. 3 (*b*).
[3] This section was inserted by Bom. 3 of 1949, s. 2.

rent in respect of any premises situate in such area on account of the payment by him of an increase in the rate or tax imposed or levied by any local authority for its own purpose on buildings, houses or lands, after such date, as may be specified in the notification.]

Court may fix standard rent and permitted increases in certain cases.

11. (*1*) In any of the following cases the Court may, upon an application made to it for that purpose, or in any suit or proceeding, fix the standard rent at such amount as, having regard, to the provisions of this Act and the circumstances of the case, the Court deems just—

(*a*) where any premises are first let after the first day of September 1940, and the rent at which they are so let is in the opinion of the Court excessive ; or

(*b*) where the Court is satisfied that there is no sufficient evidence to ascertain the rent at which the premises were let in any one of the cases mentioned in sub-clauses (*i*) to (*iii*) of clause (*b*) of sub-section (*10*) of section 5 ; or

(*c*) where by reason of the premises having been let at one time as a whole or in parts and at another time in parts or as a whole, or for any other reasons, any difficulty arises in giving effect to this Part ; or

(*d*) where any premises have been or are let rent-free or at a nominal rent or for some consideration in addition to rent ; or

(*e*) where there is any dispute between the landlord and the tenant regarding the amount of standard rent.

(*2*) If there is any dispute between the landlord and the tenant regarding the amount of permitted increases the Court may determine such amount.

(*3*) If an application for fixing the standard rent or for determining the permitted increases is made by a tenant who has received a notice from his landlord under sub-section (2) of section 12, the Court shall forthwith make an order specifying the amount of rent or permitted increases to be paid by the tenant pending the final decision of the application , and a copy of such order shall be served upon the landlord.

No ejectment ordinarily to be made if tenant pays or is ready and willing to pay standard rent and permitted increases.

12. (*1*) A landlord shall not be entitled to the recovery of possession of any premises so long as the tenant pays, or is ready and willing to pay, the amount of the standard rent and permitted increases, if any, and observes and performs the other conditions of the tenancy, in so far as they are consistent with the provisions of this Act.

(*2*) No suit for recovery of possession shall be instituted by a landlord against a tenant on the ground of non-payment of the standard rent or permitted increases due, until the expiration of one month next after notice in writing of the demand of the standard rent or permitted increases has been served upon the tenant in the manner provided in section 106 of the Transfer of Property Act, 1882.

IV of 1882.

(*3*) No decree for eviction shall be passed in any such suit if, at the hearing of the suit, the tenant pays or tenders in Court the standard rent or permitted increases then due together with the costs of the suit.

Explanation.—In any case where there is a dispute as to the amount of standard rent or permitted increases recoverable under this Act the tenant shall be deemed to be ready and willing to pay such amount if, before the expiry of the period of one month after notice referred to in sub-section (*2*), he makes an application to the Court under sub-section (*3*) of section 11 and thereafter pays or tenders the amount of rent or permitted increases specified in the order made by the Court.

When landlord may recover possession.

13. (*1*) Notwithstanding anything contained in this Act [1][but subject to the provisions of section 15], a landlord shall be entitled to recover possession of any premises if the Court is satisfied—

(*a*) that the tenant has committed any act contrary to the provisions of clause (*o*) of section 108 of the Transfer of Property Act, 1882; or IV of 1882.

(*b*) that the tenant has, without the landlord's consent given in writing, erected on the premises any permanent structure; or

(*c*) that the tenant or any person residing with the tenant has been guilty of conduct which is a nuisance or annoyance to the adjoining or neighbouring occupiers, or has been convicted of using the premises or allowing the premises to be used for immoral or illegal purposes; or

(*d*) that the tenant has given notice to quit and in consequence of that notice the landlord has contracted to sell or let the premises or has taken any other steps, as a result of which he would, in the opinion of the Court, be seriously prejudiced if he could not obtain possession of the premises; or

(*e*) that the tenant has, since the coming into operation of this Act, sub-let the whole or part of the premises or assigned or transferred in any other manner his interest therein; or

(*f*) that the premises were let to the tenant for use as a residence by reason of his being in the service or employment of the landlord, and that the tenant has ceased, whether before or after the coming into operation of this Act, to be in such service or employment; or

(*g*) that the premises are reasonably and *bona fide* required by the landlord for occupation by himself or by any person for whose benefit the premises are held; or

(*h*) that the premises are reasonably and *bona fide* required by the landlord for carrying out repairs which cannot be carried out without the premises being vacated; or

(*i*) that where the premises are land, such land is reasonably and *bona fide* required by the landlord for the erection of a new residential building; or

(*j*) that the rent charged by the tenant for the premises or any part thereof which are sub-let before the coming into operation of this Act is in excess of the standard rent and permitted increases in respect of such premises or part or that the tenant has received any fine, premium, other like sum or consideration in respect of such premises or part; or

(*k*) that the premises have not been used without reasonable cause for the purpose for which they were let for a continuous period of six months immediately preceding the date of the suit; or

(*l*) that the tenant after the coming into operation of this Act has built, acquired vacant possession of or been allotted a suitable residence.

(*2*) No decree for eviction shall be passed on the ground specified in clause (*g*) of sub-section (*1*) if the Court is satisfied that, having regard to all the circumstances of the case including the question whether other reasonable accommodation is available for the landlord or the tenant, greater hardship would be caused by passing the decree than by refusing to pass it.

Where the Court is satisfied that no hardship would be caused either to the tenant or to the landlord by passing the decree in respect of a part of the premises, the Court shall pass the decree in respect of such part only.

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[1] These words and figures were inserted by Bom. 3 of 1949, s. 3.

Explanation.—For the purposes of clause (*g*) of sub-section (*1*)—

(*a*) a person shall not be deemed to be a landlord unless he has acquired his interest in the premises at a date prior to the beginning of the tenancy, or the first day of January 1947, whichever is later or, if the interest has devolved on him by inheritance or succession, his predecessor-in-title had acquired the interest at a date prior to the beginning of the tenancy, or the first day of January 1947, whichever is later;

(*b*) the expression "landlord" shall not include a rent-farmer or rent-collector or estate-manager.

(*3*) The Court may pass the decree on the ground specified in clause (*h*) or (*i*) of sub-section (*1*) only in respect of a part of the premises which in its opinion it is necessary to vacate for carrying out the work of repairs or erection.

(*4*) For the purposes of clause (*j*) of sub-section (*1*) the standard rent or permitted increases in respect of the part sub-let shall be the amounts bearing such proportion to the standard rent or permitted increases in respect of the premises as may be reasonable having regard to the extent of the part sub-let and other relevant considerations.

Sub-tenant to become tenant on determination of tenancy.

14. Where the interest of a tenant of any premises is determined for any reason, any sub-tenant to whom the premises or any part thereof have been lawfully sub-let before the coming into operation of this Act shall, subject to the povisions of this Act, be deemed to become the tenant of the landlord on the same terms and conditions as he would have held from the tenant if the tenancy had continued.

Tenant not to sub-let or transfer after this Act.

15. Notwithstanding anything contained in any law, it shall not be lawful after the coming into operation of this Act for any tenant to sub-let the whole or any part of the premises let to him or to assign or transfer in any other manner his interest therein:

[1][Provided that the Provincial Government may, by notification in the *Official Gazette*, permit in any area the transfer of interest in premises held under such leases or class of leases and to such extent as may be specified in the notification.]

Recovery of possession for repairs; and re-entry.

16. (*1*) The Court shall when passing a decree on the ground specified in clause (*h*) of sub-section (*1*) of section 13 ascertain from the tenant whether he elects to be placed in occupation of the premises or part thereof from which he is to be evicted and, if the tenant so elects, shall record the fact of the election in the decree and specify in the decree the date on or before which he shall deliver possession so as to enable the landlord to commence the work of repairs.

(*2*) If the tenant delivers possession on or before the date specified in the decree the landlord shall, on the completion of the work of repairs, place the tenant in occupation of the premises or part thereof on the original terms and conditions.

(*3*) If, after the tenant has delivered possession on or before the date specified in the decree, the landlord fails to commence the work of repairs within one month of the specified date or fails to complete the work within a reasonable time or having completed the work fails to place the tenant in occupation of the premises in accordance with sub-section (*2*), the Court may, on the application of the tenant made within one year of the specified date, order the landlord to place him in occupation of the premises or part thereof on the original terms and conditions; and on such order being made the landlord and any person who may be in occupation shall give vacant possession to the tenant of the premises or part thereof.

[1] This proviso was substituted for the original by Bom. 36 of 1948, s. 4

(*4*) Any landlord who, when the tenant has vacated by the date specified in the decree, without reasonable excuse fails to commence the work of repairs and any landlord or other person in occupation of the premises who fails to comply with the order made by the Court under sub-section (*3*), shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Recovery of possession for occupation, etc., and re-entry.

17. (*1*) Where a decree for eviction has been passed by the Court on the ground specified in clause (*g*) or (*i*) of sub-section (*1*) of section 13 and the premises are not occupied or the work of erection is not commenced within a period of one month from the date the landlord recovers possession or the premises are re-let within one year of the said date to any person other than the original tenant, the Court may, on the application of the original tenant made within thirteen months of such date order the landlord to place him in occupation of the premises on the original terms and conditions, and, on such order being made, the landlord and any person who may be in occupation of the premises shall give vacant possession to the original tenant.

(*2*) Any landlord who recovers possession on the ground specified in clause (*g*) or (*i*) of sub-section (*1*) of section 13 and keeps the premises unoccupied or does not commence the work of erection without reasonable excuse within the period of one month from the date he recovered possession and any landlord or other person in occupation of the premises who fails to comply with the order of the Court under sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Unlawful charges by landlord.

18. (*1*) If any landlord either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of the landlord receives any fine, premium or other like sum or deposit or any consideration, other than the standard rent or the permitted increases, in respect of the grant, renewal or continuance of a lease of any premises, or for giving his consent to the transfer of a lease by sub-lease or otherwise, such landlord or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him, and further where the offence is committed by a landlord in respect of premises which were of his ownership on the date of the offence such premises shall be liable to confiscation.

(*2*) Where any fine, premium or other like sum or deposit or any consideration referred to in sub-section (*1*) is paid by any person, the amount or value thereof shall be recoverable by him from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, if such person is a tenant, without prejudice to any other remedy for recovery, be deducted by him from any rent payable by him to such landlord.

(*3*) Nothing in this section shall apply to any payment made under any agreement entered into before the first day of September 1940.

Explanation.—For the purposes of sub-section (*1*)—

(*a*) receipt of rent in advance for more than three months in respect of premises let for the purpose of residence, or

(*b*) where any furniture or other article is sold by the landlord to the tenant either before or after the creation of tenancy of any premises, the excess of the price received over the reasonable price of the furniture or article,

shall be deemed to be a fine or premium or consideration.

Unlawful charges by tenant.

19. (*1*) It shall not be lawful for the tenant or any person acting or purporting to act on behalf of the tenant to claim or receive any sum or any consideration as a condition of the relinquishment of his tenancy of any premises.

(*2*) Any tenant or person who in contravention of the provisions of sub-section (*1*) receives any sum or consideration shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the sum or the value of the consideration received by him.

Recovery of amounts paid not in accordance with Act.

20. Any amount paid on account of rent after the date of the coming into operation of this Act shall, except in so far as payment thereof is in accordance with the provisions of this Act, be recoverable by the tenant from the landlord to whom it was paid or on whose behalf it was received or from his legal representative at any time within a period of six months from the date of payment and may, without prejudice to any other remedy for recovery, be deducted by such tenant from any rent payable by him to such landlord.

Landlord to furnish particulars of rent, etc., to tenant.

21. (*1*) Every landlord shall, upon a notice served upon him by the tenant by post or in any other manner, furnish to such tenant within one month of the receipt of such notice a statement giving full particulars of the amount of standard rent of the premises or part thereof let to such tenant and of the permitted increases.

(*2*) Any landlord who fails to furnish such statement or any landlord or his agent who intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

Particulars to be furnished by tenant of tenancy sub-let or transferred before this Act.

22. (*1*) Every tenant who, before the date of the coming into operation of this Act, has, without the consent of the landlord given in writing, sub-let the whole or any part of the premises let to him or assigned or transferred in any other manner his interest therein, and every sub-tenant to whom the premises are so sub-let or the assignment or transfer is so made shall furnish to the landlord, within a month of the receipt of a notice served upon him by the landlord by post or in any other manner a statement in writing signed by him giving full particulars of such sub-letting, assignment or transfer including the rent charged or paid by him.

(*2*) Any tenant or sub-tenant who fails to furnish such statement or intentionally furnishes a statement which is false in any material particular shall be punishable with fine which may extend to one thousand rupees.

Landlord's duty to keep premises in good repair.

23. (*1*) Notwithstanding anything contained in any law for the time being in force and in the absnece of an agreement to the contrary by the tenant, every landlord shall be bound to keep the premises in good and tenantable repair.

(*2*) If the landlord neglects to make within a reasonable time, after a notice is served upon him by post or in any other manner any repairs which he is bound to make under sub-section (*1*), the tenant may make the same himself and deduct the expenses of such repairs from the rent or otherwise recover them from the landlord :

Provided that the amount so deducted or recoverable in any year shall not exceed one-twelfth of the rent payable by the tenant for that year.

Landlord not to cut off or withhold essential supply or service.

24. (*1*) No landlord either himself or through any person acting or purporting to act on his behalf shall without just or sufficient cause cut off or withhold any essential supply or service enjoyed by the tenant in respect of the premises let to him.

(*2*) A tenant in occupation of the premises may, if the landlord has contravened the provisions of sub-section (*1*), make an application to the Court for a direction to restore such supply or service.

(*3*) If the Court on inquiry finds that the tenant has been in enjoyment of the essential supply or service and that it was cut off or withheld by the landlord without just or sufficient cause, the Court shall make an order directing the landlord to restore such supply or service before a date to be specified in the order. Any landlord who fails to restore the supply or service before the date so specified shall for each day during which the default continues thereafter be liable to fine which may extend to one hundred rupees.

(*4*) Any landlord who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Explanation.—In this section essential supply or service includes supply of water, electricity, lights in passages and on stair-cases, lifts and conservancy or sanitary service.

Conversion of residential into non-residential premises prohibited.

25. (*1*) A landlord shall not use or permit to be used for a non-residential purpose any premises which on the date of the coming into operation of this Act were used for a residential purpose.

(*2*) Any landlord who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both.

Giving receipt for rent compulsory.

26. (*1*) Every landlord shall give a written receipt for any amount received by him in respect of any premises in such form and in such maner as may be prescribed.

(*2*) Any landlord or person who fails to give a written receipt for any amount received by him in respect of any premises shall, on conviction, be punishable with fine which may extend to one hundred rupees.

Recovery of rent according to British calendar.

27. (*1*) Notwithstanding anything contained in any law for the time being in force or any contract, custom or local usage to the contrary, rent payable by the month or year or portion of a year shall be recovered according to the British calendar.

(*2*) The Provincial Government may prescribe the manner in which rent recoverable according to any other calendar before the coming into operation of this Act shall be calculated and charged in terms of the British Calendar.

Jurisdiction of courts.

28. Notwithstanding anything contained in any law and notwithstanding that, by reason of the amount of the claim or for any other reason, the suit or proceeding would not, but for this provision, be within its jurisdiction,

(*a*) in Greater Bombay, the Court of Small Causes, Bombay, and

(*b*) elsewhere, the Court of the Civil Judge (Junior Division) having jurisdiction in the area in which the premises are situate or, if there is no such Civil Judge, the Court of the Civil Judge (Senior Division) having ordinary jurisdiction,

shall have jurisdiction to entertain and try any suit or proceeding between a landlord and a tenant relating to the recovery of rent or possession of any

premises to which any of the provisions of this Part apply and to decide any application made under this Act and to deal with any claim or question arising out of this Act or any of its provisions; and no other court shall have jurisdiction to entertain any such suit, proceeding or application or to deal with such claim or question.

Explanation.—In this section "proceeding" does not include an execution proceeding arising out of a decree passed before the coming into operation of this Act.

Appeal.

29. (*1*) Notwithstanding anything contained in any law, an appeal shall lie—

(*a*) in Greater Bombay, from a decree or order made by the Court of Small Causes, Bombay, exercising jurisdiction under section 28, to a bench of two judges of the said Court which shall not include the judge who made such decree or order;

(*b*) elsewhere, from a decree or order made by a Civil Judge exercising such jurisdiction, to the District Court.

[1][(*1A*) Every appeal under sub-section (*1*) shall be made within thirty days from the date of the decree or order, as the case may be:

Provided that in computing the period of limitation prescribed by this sub-section the provisions contained in sections 4, 5 and 12 of the Indian Limitation Act, 1908, shall, so far as may be, apply.]

IX of 1908.

(*2*) No further appeal shall lie against any decision in appeal under sub-section (*1*).

Saving of suits involving title.

[2][**29A.** Nothing contained in section 28 or 29 shall be deemed to bar a party to a suit, proceeding or appeal mentioned therein in which a question of title to premises arises and is determined, from suing in a competent court to establish his title to such premises.]

Compensation in respect of proceedings which are not *bona fide* or are false, frivolous or vexatious.

30. If the court finds that any suit, proceeding or application instituted or made before it is not instituted or made *bona fide* or is false, frivolous or vexatious, the court may, after hearing the plaintiff or applicant and for reasons to be recorded, order that compensation, not exceeding one thousand rupees, be paid by such plaintiff or applicant to the defendant or opponent, as the case may be.

Procedure of courts.

31. The courts specified in sections 28 and 29 shall follow the prescribed procedure in trying and hearing suits, proceedings, applications and appeals and in executing orders made by them.

PART III.

Hotels and Lodging Houses.

Appointment of Controller.

32. The Provincial Government may by notification in the *Official Gazette* appoint any person to be a Controller for any area for the purposes of this Part.

[1] This sub-section was inserted by Bom. 36 of 1948, s. 5. This amendment shall not apply to appeals from decrees or orders made before the coming into operation of the said Act, *vide* s. 8.

[2] This section was inserted, *ibid*, s. 6.

Fixation of fair rates, [3][percentage of accommodation] and number of lodgers.

33. (*1*) The Controller may fix a fair rate to be charged for board, lodging or other service provided in a hotel or lodging house at such amount as having regard to the circumstances of the case, he deems just. [1][The Controller may also fix the percentage of accommodation for daily and monthly lodgers, respectively, in a hotel or lodging house.]

(*2*) The Controller may fix a fair rate separately for—

(*i*) lodging with reference to the nature of the accommodation and the number of lodgers to be accommodated;

(*ii*) board, partial or full;

(*iii*) other service.

(*3*) The Controller may fix fair rates separately for daily and monthly lodgers.

(*4*) The Controller shall also fix the number of lodgers to be accommodated in each room or specified accommodation in the hotel or lodging house.

[3][*Explanation.*—For the purposes of this Part, a lodger who agrees to reserve accommodation in a hotel or lodging house for a period of less than a month shall be deemed to be a daily lodger.]

Revision of fair rates [4][,percentage of accommodation] and number of lodgers.

34. The Controller may, from time to time, revise the fair rates [4][,the per centage of accommodation] or the number of lodgers fixed under section 33.

Continuance of fair rates before coming into operation of this Part.

35. Fair rates fixed under the Bombay Hotels and Lodging Houses Control Order, 1942, or the Bombay Rents, Hotel Rates and Lodging House Rates (Control), Act, 1944, and which were in force immediately before the coming into operation of this Part shall be deemed to have been fixed under this Part, and the provisions of this Part shall apply in respect of such rates. Bom. VII of 1944.

Notice of fair rate [5][,percentage of accommodation] and number of lodgers to be displayed.

36. Where under section 33 or section 34 the Controller has fixed or revised the fair rate [5][,the percentage of accommodation] or the number of lodgers he shall direct the manager of the hotel or the owner of the lodging house, as the case may be, to display a notice of the fair rate, [5][percentage of accommodation], the number of lodgers and all the provisions of this Act relating thereto in a conspicuous manner in the hotel or lodging house and also in the room or accommodation in respect of which the fair rate and the number of lodgers are fixed or revised.

Charges not recoverable in excess of fair rate.

37. (*1*) Notwithstanding any agreement to the contrary, no manager of a hotel or owner of a lodging house shall charge any amount in excess of the fair rate.

(*2*) When the Controller has fixed the fair rate any agreement for the payment of any charges in excess of such fair rate shall be void in respect of such excess and shall be construed as if it were an agreement for payment of the said fair rate.

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[1] This portion was added by Bom. 3 of 1949, s. 4 (*1*).
[2] This Explanation was inserted, *ibid*, s. 4 (*2*).
[3] These words were inserted, *ibid*, s. 4 (*3*).
[4] These words were inserted, *ibid*, s. 5.
[5] These words were inserted, *ibid*, s. 6.

(*3*) Any sum paid by a lodger in excess of the fair rate shall be recoverable by him at any time within a period of six months from the date of payment from the manager of the hotel or the owner of the lodging house or his legal representative, and may, without prejudice to any other remedy for recovery, be deducted by such lodger from any amount payable by him to such manager or owner.

No ejectment ordinarily to be made if fair rate paid.

38. No manager of a hotel or owner of a lodging house shall evict or refuse board or other service to a lodger so long as he pays, or is ready and willing to pay, the fair rate and observes and performs the other conditions of his agreement in so far as they are consistent with the provisions of this Act:

[1][Provided that where under section 33 or section 34 the Controller has fixed or revised the percentage of accommodation for daily and monthly lodgers respectively, the manager of a hotel or owner of a lodging house may refuse accommodation to any daily or monthly lodger, as the case may be, if the accommodation in respect of such class of lodgers is fully occupied.]

When manager of a hotel or owner of lodging house may recover possession.

39. Notwithstanding anything contained in this Act, a manager of a hotel or owner of a lodging house shall be entitled to recover possession of the accommodation provided by him on obtaining a certificate from the Controller certifying that—

(*a*) the lodger has been guilty of conduct which is a nuisance or an annoyance to any adjoining or neighbouring lodger; [2]*

(*b*) the accommodation is reasonably and *bona fide* required by the owner of the hotel or lodging house, as the case may be, either for his own occupation or for the occupation of any person for whose benefit the accommodation is held, or for any other cause which may be deemed satisfactory by the Controller [3][or]

[4][(*c*) the lodger has failed to vacate the accommodation on the termination of the period of the agreement in respect thereof:

Provided that before issuing a certificate under this clause the Controller take into consideration the vacancies, if any, in the accommodation for daily and monthly lodgers the percentage of which has been fixed or revised under section 33 or section 34 and the circumstances under which the lodger did not vacate on the termination of the period of the agreement.]

Penalties.

40. (*1*) If any manager of a hotel or owner of a lodging house either himself or through any person acting or purporting to act on his behalf or if any person acting or purporting to act on behalf of a manager of a hotel or owner of a lodging house receives any fine, premium or other like sum or deposit or any consideration other than the fair rate, in respect of the grant or continuance of accommodation in the hotel or lodging house, such manager, owner or person shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be punished with fine which shall not be less than the amount of the fine, premium or sum or deposit or the value of the consideration received by him.

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[1] This proviso was added by Bom. 3 of 1949, s. 7.
[2] The word "or" was deleted, *ibid*, s. 8.
[3] This word was added, *ibid*.
[4] This clause was added, *ibid*.

(*2*) Any manager of a hotel or owner of a lodging house who charges any amount in excess of the fair rate in contravention of section 37 shall, on conviction, be punishable with imprisonment which may extend to three months, or with fine, or with both.

(*3*) Any manager of a hotel or owner of a lodging house who accommodates lodgers or permits lodgers to be accommodated in a room or specified accommodation in excess of the number fixed by the Controller shall, on conviction, be punishable with fine which may extend to one thousand rupees.

(*4*) Any manager of a hotel or owner of a lodging house who fails to display a notice in contravention of the Controller's direction under section 36 shall, on conviction, be punishable with fine which may extend to five hundred rupees.

[1][*Explanation*.—For the purposes of sub-section (*1*), receipt of charges in advance for more than one month shall be deemed to be a fine or premium or consideration.]

Provisions relating to inquiries by Controller.

41. (*1*) No order under this Act shall be made by the Controller except after holding an inquiry.

(*2*) Every such inquiry shall be made summarily in the prescribed manner.

(*3*) For the purposes of holding an inquiry under sub-section (*1*) the Controller shall have the same powers as are vested in Civil Courts in respect of—

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath,

(*c*) compelling the production of documents, and

(*d*) issuing commissions for the examination of witnesses.

(*4*) The Controller may himself enter or authorize any person subordinate to him to enter upon any premises, hotel or lodging house or any part thereof to which the inquiry relates.

Appeal.

42. An appeal shall lie to the Provincial Government from an order passed by the Controller under the provisions of this Part (including an order granting or refusing a certificate under section 39) within fifteen days from the date of communication of the order and the Provincial Government may pass such order as it deems fit.

Procedure of Courts in suits.

43. [2][(*1*)] The provisions contained in sections 28, 29, 30 and 31 shall, [3][subject to the provisions of sub-section (*2*),] apply to suits by a manager of a hotel or an owner of a lodging house against a lodger for recovery of charges for, or possession of, the accommodation provided in the hotel or lodging house.

[4][(*2*) Pending the final decision of the suit for recovery of charges for the accommodation provided in a hotel or lodging house, the manager of the hotel or the owner of the lodging house may make an application to the court requiring the lodger to deposit in Court the amount of such charges. On such application, the Court shall forthwith make an order directing the lodger to deposit in Court such amount of charges within such period as it thinks fit and shall serve a copy of such order upon the manager of the hotel or the owner of the lodging house. If the lodger fails to deposit such amount within the period specified in the order the Court may at any time thereafter pass an order for the eviction of the lodger.]

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[1] This Explanation was added by Bom. 36 of 1948, s. 7.

[2] This section was renumbered as 43 (*1*) by Bom. 3 of 1949, s. 9 (*1*).

[3] This portion was inserted, *ibid.*

[4] This sub-section was inserted, *ibid*, s. 9 (*2*).

XLV of 1860.

44. A Controller appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Controller to be deemed public servant.

XLV of 1860.

45. All proceedings before a Controller shall be deemed to be judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code. All proceedings before a Controller to be judicial proceedings.

46. No suit, prosecution or other legal proceeding shall lie against a Controller in respect of anything in good faith done or intended to be done under this Act. Protection of action taken under this Act.

PART IV.

Miscellaneous.

47. (*1*) Offences under sections 16, 17, 18, 19, sub-section (*4*) of section 24, section 25 and sub-sections (*1*) and (*2*) of section 40 shall be cognizable and shall not be triable by any Court inferior to that of a Presidency Magistrate or a Magistrate of the First Class. Certain offences to be cognizable.

(*2*) Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a magistrate trying offences under this Act to pass sentences of fine or to award any punishment under this Act in excess of his powers.

V of 1898.

48. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof, and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence. Offence by companies, etc.

49. (*1*) The Provincial Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for the purpose of giving effect to the provisions of this Act. Rules.

(*2*) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for—

(*i*) the form and the manner in which a receipt is to be given under sub-section (*1*) of section 26;

(*ii*) the manner in which rent recoverable according to any calendar other than the British calendar before the coming into operation of this Act shall be calculated and charged in terms of the British calendar under sub-section (*2*) of section 27;

(*iii*) the procedure to be followed in trying or hearing suits, proceedings (including proceedings for execution of decrees and distress warrants), applications, appeals and execution of orders;

(*iv*) the manner in which inquiries shall be made summarily under sub-section (*2*) of section 41;

(*v*) levy of court fees in suits, proceedings and applications instituted before a Court or Controller.

Repeal.

*50. The Bombay Rent Restriction Act, 1939, and the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, are hereby repealed : Bom. XVI of 1939. Bom. VII of 1944.

Provided that all suits and proceedings, [1]* * * between a landord and a tenant relating to the recovery or fixing of rent or possession of any premises to which the provisions of Part II apply and all suits and proceedings by a manager of a hotel or an owner of a lodging house against a lodger for the recovery of charges for, or possession of, the accommodation provided in a hotel or lodging house situate in an area to which Part III applies, which are pending in any Court, shall be transferred to and continued before the Courts which would have jurisdiction to try such suits or proceedings under this Act [2][or shall be continued in such Courts, as the case may be,] ; and [3]* all the provisions of this Act and the rules made thereunder shall apply to all such suits and proceedings.

[4][Nothing in this proviso shall apply to execution proceedings and appeals arising out of decrees or orders passed before the coming into operation of this Act and such execution proceedings and appeals shall be decided and disposed of as if this Act had not been passed :]

Provided further that—

(*a*) every order passed or act done by the Controllers under Part IV of the Bombay Rents, Hotel Rates and Lodging House Rates (Control) Act, 1944, and every order or act deemed to have been passed or done under that Part shall be deemed to have been passed or done under this Act ; and Bom. VII 1944.

(*b*) all proceedings pending before the Controllers under Part IV of that Act shall be transferred to and continued before the Controllers appointed under this Act as if they were proceedings instituted before the Controllers under this Act.

Removal of doubt as regards proceedings under Chapter VII of the Presidency Small Cause Courts Act, 1882.

[5][51. For the removal of doubt, it is hereby declared that, unless there is anything repugnant in the subject or context, references to suits or proceedings in this Act shall include references to proceedings under Chapter VII of the Presidency Small Cause Courts Act, 1882, and references to decrees in this Act shall include references to final orders in such proceedings.] XV of 1882.

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* Section 13 of Bom 3 of 1949 reads as under :—

13. *Sections 10 and 11 to have retrospective effect.*—The amendments made by sections 10 and 11 of this Act shall be deemed to have been made and come into force on the date, on which the said Act came into force and shall always be deemed to have been made and in force from such date :

Provided that the validity of any decree or order passed in any suit or proceeding referred to in section 50 of the said Act between the 13th day of February 1948 and the 3rd day of February 1949 shall not be questioned only on the ground that such suit or proceeding should have been decided and disposed of in accordance with the provisions of the said Act and not in accordance with the provisions of any of the enactments repealed by the said Act or *vice versa* and any execution proceedings or appeals arising out of such decree or order shall be decided and disposed of in accordance with the provisions of the said Act or the enactments repealed in accordance with which as the case may be, such decree or order was passed.

[1] The words "(other than execution proceedings and appeals)" were deleted by Bom. 3 of 1949, s. 10.

[2] These words were inserted, *ibid.*

[3] The word "thereupon" was deleted, *ibid.*

[4] This portion was inserted, *ibid.*

[5] This section was added, *ibid*, s. 11.

SCHEDULE I.

(*See* section 2 (2).)

(*i*) The City of Bombay.

(*ii*) The Bombay Suburban District.

(*iii*) The Thana District.

(*iv*) The Nasik District.

(*v*) (*a*) *Ahmedabad District*—

(1) Ahmedabad Municipal Borough.
(2) Ahmedabad Cantonment.
(3) Kochrab Village.
(4) Paldi Village.
(5) Madalpur Village.
(6) Changispur Village.
(7) Shekhpur-Khanpur Village.
(8) Vasna-Maktampur Village.
(9) Vadaj Village.
(10) Usmanpur Village.
(11) Ranip Village.
(12) Survey Nos. 149, 150 and 151 of Memnagar Village.
(13) Baherampur Village.
(14) Ranip-Hirpur Village.
(15) Dani Limda Village.
(16) Gomtipur Village.
(17) Khokra-Mahmedabad Village.
(18) Amraivali Village.
(19) Rakhial Village.
(20) Saraspur Village.
(21) Asarva Village.
(22) Revenue Survey Nos. 1077 to 1140 of Naroda Village.
(23) Sahijpur Bogha Village.
(24) Dariapur-Kajipur Village.
(25) Hansol Village.
(26) Acher Village.

(*b*) *Kaira District*—

(1) Anand Municipal District.
(2) Borsad Municipal District.
(3) Mehmedabad Municipal District.
(4) Kapadwanj Municipal District.
(5) Umreth Municipal District.
(6) Dakore Municipal District.
(7) Kaira Municipal District.
(8) Nadiad Municipal Borough.
(9) Matar Village.
(10) Thasra Village.

(*c*) *Broach District*—

(1) Broach Municipal Borough.
(2) Ankleshwar Municipal District.
(3) Jambusar Municipal District.

(*d*) *Panch Mahals District*—

(1) Dohad Municipal District.
(2) Godhra Municipal Borough.
(3) Jhalod Village.
(4) Halol Village.
(5) Kalol Village.
(6) Derol Village.
(7) Vejalpore Village.

(*e*) *Surat District*—

(1) Surat Municipal Borough.
(2) Bulsar Municipal District.
(3) Rander Municipal District.
(4) Jalalpore Village.
(5) Mandvi Village.
(6) Pardi Village.

(*f*) *Ahmednagar District*—

(1) Ahmednagar Municipal Borough.
(2) Ahmednagar Cantonment.
(3) Sangamner Municipal District.
(4) Kopargaon Municipal District.
(5) Shrirampur Municipal District.
(6) Akola Village.
(7) Rahuri Budruk Village.
(8) Newasa Budruk Village.
(9) Shevgaon Village.
(10) Shrigonda Village.
(11) Pathardi Village.
(12) Karjat Village.
(13) Jamkhed Village.
(14) Parner Village.
(15) Belapur Budruk Village.
(16) Newasa Khurd Village.
(17) The revenue village of Rahuri Khurd.
(18) The revenue village of Belapur Khurd.

SCHEDULE I—*contd.*

(*g*) *East Khandesh District*—

(1) Jalgaon Municipal Borough.
(2) Bhusaval Municipal Borough.
(3) Amalner Municipal Borough.
(4) Chalisgaon Municipal Borough.
(5) Pachora Municipal District.
(6) Chopda Municipal District.
(7) Yawal Municipal District.
(8) Raver Municipal District.
(9) Savda Municipal District.
(10) Faizpur Municipal District.

(*h*) *West Khandesh District*—

(1) Nandurbar Municipal District
(2) Dhulia Municipal Borough.

(*i*) *Poona District*—

(1) Lonavla Municipal Borough.
(2) Poona City Municipal Borough.
(3) Poona Suburban Municipal Borough.
(4) Poona Cantonment.
(5) Aundh Road area which is under the jurisdiction of the Bapodi Gram Panchayat near Kirkee.
(6) The Village of Dapodi, Haveli Taluka.
(7) Baramati Municipal District.

(*j*) *Satara District*—

(1) Satara City Municipal Borough.
(2) Satara Suburban Municipal District.
(3) Karad Municipal Borough.
(4) Wai Municipal District.
(5) Panchgani Municipal District.
(6) Mahableshwar Municipal District.
(7) Tasgaon Municipal District.

(*k*) *Sholapur District*—

(1) Sholapur Municipal Borough.
(2) Barsi Municipal Borough.
(3) Pandharpur Municipal Borough.
(4) Karmala Municipal District.

(*k*) *Sholapur District*—contd.

(5) Sangola Municipal District.
(6) Madha Village.
(7) Mahol Village.
(8) Malsiras Village.
(9) Kurduwadi Village.
(10) Tembhurni Village.
(11) Akluj Village.
(12) Vairag Village.

(*l*) *Belgaum District*—

(1) Belgaum Municipal Borough.
(2) Belgaum Cantonment.
(3) Nipani Municipal Borough.
(4) Athni Municipal District.
(5) Gokak Municipal District.
(6) Saundatti-Yellama Municipal District.
(7) Bailhongal Municipal District.

(*m*) *Bijapur District*—

(1) Bijapur Municipal Borough.
(2) Bagalkot Municipal District.

(*n*) *Dharwar District*—

(1) Dharwar Municipal Borough.
(2) Hubli Municipal Borough.
(3) Gadag-Betgeri Municipal Borough.
(4) Haveri Municipal District.
(5) Ranebennur Municipal District.
(6) Navalgund Municipal District.
(7) Nargund Municipal District.
(8) Byadgi Municipal District.
(9) Gudguddapur Municipal District.
(10) Kalaghatgi-Bendigiri Village.
(11) Karajgi-Chikmagdur Village.
(12) Hangal Village.
(13) Ron Village.
(14) Mundargi Village.
(15) The Revenue Village of Bankapur.
(16) The Revenue Village of Kod.
(17) Gajendragad Village.
(18) Annigeri Village.
(19) Hirekerur Village.
(20) Shiggaon Village.

SCHEDULE I—*contd.*

(*o*) *Kanara District*—

(1) Karwar Municipal District.
(2) Kumta Municipal District.
(3) Gokarn Municipal District.
(4) Bhatkal Municipal District.
(5) Sirsi Municipal District.
(6) Ankola Panchayat Group.
(7) Siddapur Panchayat Group.

(*p*) *Kolaba District*—

(1) Alibag Municipal District.
(2) Mahad Municipal District.
(3) Panvel Municipal District.

(*p*) *Kolaba District*—contd.

(4) Pen Municipal District.
(5) Roha-Ashtami Municipal District.
(6) Uran Municipal District.
(7) Karjat Village.

(*q*) *Ratnagiri District*—

(1) Ratnagiri Municipal Borough.
(2) Chiplun Municipal District.
(3) Malwan Municipal District.
(4) Vengurla Municipal District.

SCHEDULE II.

(*See* section 2 (*2*).)

(*i*) The City of Bombay.

(*ii*) *Ahmednagar District*—

(1) Ahmednagar Municipal Borough.
(2) Ahmednagar Cantonment.
(3) Sangamner Municipal District.
(4) Kopargaon Municipal District.
(5) Shrirampur Municipal District.
(6) Akola Village.
(7) Rahuri Budruk Village.
(8) Newasa Village.
(9) Shevgaon Village.
(10) Shrigonda Village.
(11) Pathardi Village.
(12) Karjat Village.
(13) Jamkhed Village.
(14) Parner Village.
(15) Belapur Budruk Village.
(16) Newasa Khurd Village.
(17) The revenue village of Rahuri Khurd.
(18) The revenue village of Belapur Khurd.

(*iii*) *East Khandesh District*—

(1) Jalgaon Municipal Borough.
(2) Bhusaval Municipal Borough.
(3) Amalner Municipal Borough.

(*iii*) *East Khandesh District*—contd.

(4) Chalisgaon Municipal Borough.
(5) Pachora Municipal District.
(6) Chopda Municipal District.
(7) Yawal Municipal District.
(8) Raver Municipal District.
(9) Savda Municipal District.
(10) Faizpur Municipal District.

(*iv*) *West Khandesh District*—

(1) Dhulia Municipal Borough.
(2) Nandurbar Municipal District.

(*v*) *Poona District*—

(1) Poona City Municipal Borough.
(2) Poona Suburban Municipal Borough.
(3) Poona Cantonment.
(4) Kirkee Cantonment.
(5) Lonavla Municipal Borough, including the Khandala area.
(6) Dhond Municipal District.

[SCHEDULE III.

(*See* section 10A.)

(*a*) *Bombay Suburban District*—

(1) Kurla Municipal Borough.
(2) Bandra Municipal Borough.
(3) Parle-Andheri Municipal Borough.
(4) Ghatkopar-Kirol Municipal Borough.
(5) Juhu Municipal District.
(6) Chembur Village.

(*b*) *Thana District*—

(1) Thana Municipal Borough.
(2) Malad Notified Area.
(3) Kandivali Notified Area.

(*b*) *Thana District*—contd.

(4) Borivli Notified Area.
(5) Mulund Village.
(6) Bhayandar Village.

(*c*) *Ahmedabad District*—

(1) Ahmedabad Municipal Borough.
(2) Ahmedabad Cantonment.

(*d*) *Poona District*—

(1) Poona City Municipal Borough.
(2) Poona Suburban Municipal Borough.
(3) Poona Cantonment.
(4) Kirkee Cantonment.]

THE BOMBAY RATIONING (PREPARATORY AND CONTINUANCE) MEASURES ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

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4. Obligation to answer certain questions and to furnish certain information.
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6. Letters, marks and numbers painted, etc., and orders made under Defence of India Rules to be deemed to be painted, etc., under this Act.
7. Penalties.
8. Bar of proceedings.
9. Sanction for prosecution.
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BOMBAY ACT No. LVIII OF 1947.[1]

[THE BOMBAY RATIONING (PREPARATORY AND CONTINUANCE) MEASURES ACT, 1947.]

[*19th January 1948.*]

An Act to provide for the numbering of premises and collecting information about persons and establishments, as measures preparatory to and for continuance of the rationing of articles or things essential to the life of the community.

WHEREAS it is expedient to provide for the numbering of premises and collecting information about persons and establishments, as measures preparatory to and for continuance of the rationing of articles or things essential to the life of the community; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Rationing (Preparatory and Continuance) Measures Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) The Provincial Government may, by notification in the Official Gazette, direct that it shall come into force in any area on such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "Establishments" means catering establishments, institutions, residential establishments, manufacturing establishments, mills, industries, animal establishments and any other establishments or class of establishments which the Provincial Government or an officer authorised by it in this behalf may declare to be establishments for the purposes of this Act.

(*2*) (*i*) "Catering establishments" includes hotels, restaurants, eating houses, cafes, tea shops, coffee stalls, free feeding centres and every other place of refreshment open to the public, clubs, canteens and other similar establishments.

(*ii*) "Institutions" includes hospitals, sanatoria, convalescent homes, nursing homes, orphanages, work-houses, infirmaries, asylums, boarding schools (providing meals for day-boarders) and other similar establishments.

(*iii*) "Residential establishments" shall not include private households but shall include boarding houses, apartment houses, residential hotels, hostels, nurses' homes, boarding schools (without any day-boarders) and other similar establishments.

(*iv*) "Manufacturing establishments" includes bakeries, confectioneries and other similar establishments.

(*v*) "Mills" includes flour-mills, provender mills, and other similar establishments.

(*vi*) "Industries" means undertakings requiring the use of any article specified in this behalf by the Provincial Government by notification in the Official Gazette, in the process of production, manufacture or finish of any article.

(*vii*) "Animal establishments" includes stables or horses or cattle, poultry farms, zoos, menageries, veterinary hospitals, *pinjrapoles* and other similar establishments.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1947, Part V, page 236; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

(*3*) "Inquiry Officer" means a person authorised under clause (*b*) of sub-section (*1*) of section 3 and includes any person appointed to assist him under sub-section (*2*) of section 3;

(*4*) "Numbering Officer" means a person authorised under clause (*a*) of sub-section (*1*) of section 3 and includes any person appointed to assist him under sub-section (*2*) of section 3.

Power to number premises and collect information about persons.

3. (*1*) If in the opinion of the Provincial Government it is necessary or expedient to carry out any of the following measures as preparatory to, or for continuance of, the rationing of any article or thing essential to the life of the community, the Provincial Government may—

(*a*) authorise any person in respect of any area to paint or repaint on, or affix or re-affix to, any premises, such letters, marks or numbers as may be necessary for facilitating their identification;

(*b*) authorise any person in respect of any area to collect and verify or reverify information and statistics necessary for introduction or continuance of rationing in that area.

(*2*) The person authorised under sub-section (*1*) may by order in writing appoint any other person or persons to assist him in carrying out the measures.

Obligation to answer certain questions and to furnish certain information.

4. (*1*) An Inquiry Officer may, for the purposes mentioned in clause (*b*) of sub-section (*1*) of section 3, ask of any person such questions as the Provincial Government may notify in the Official Gazette.

(*2*) An Inquiry Officer may for the said purposes order any person owning or in charge of an establishment to furnish to him information in respect of the said establishment in such form as the Provincial Government may, by notification in the Official Gazette, specify.

(*3*) Every person to whom a question is asked under sub-section (*1*) or who is ordered to furnish any information under sub-section (*2*) shall be legally bound to answer the question or furnish the information to the best of his knowledge and belief and if so required by the Inquiry Officer to do so, in writing, with his name signed thereto.

Right of access.

5. Every person occupying any premises shall allow the Numbering Officer or Inquiry Officer such access thereto as he may require for the purpose of his work:

Provided that in requiring access due regard shall be paid by such Officer to the social and religious customs of the occupier.

Letters, marks and numbers painted, etc., and orders made under Defence of India Rules to be deemed to be painted, etc., under this Act.

6. All letters, marks and numbers painted or repainted on, or affixed or reaffixed to, any premises under an order made by whatever authority under the Defence of India Rules shall be deemed to be painted or repainted on, or affixed or reaffixed to, such premises under this Act.

7. (*a*) Any Inquiry Officer who knowingly makes any false returns in connection with any inquiry conducted by him; or Penalties.

(*b*) any person who voluntarily obstructs a Numbering Officer or Inquiry Officer in the exercise of his powers or the performance of his duties as such officer; or

(*c*) any person who is legally bound under section 4 to answer any question or to furnish any information—

(*i*) refuses to give an answer or to furnish the information to the best of his knowledge or belief; or

(*ii*) gives an answer or furnishes information which is false and which he either knows or believes to be false or does not believe to be true;

(*d*) any person occupying any premises who refuses to allow access to a Numbering Officer or Inquiry Officer as required by section 5; or

(*e*) any person who removes, obliterates, alters or damages any letters, marks or numbers which are painted or repainted on, or affixed or re-affixed to, or deemed to be painted or repainted on, or affixed or re-affixed to, any premises under this Act,

shall, on conviction, be punishable with imprisonment, which may extend to six months and shall also be liable to fine which may extend to five hundred rupees.

8. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act. Bar of proceedings.

9. No prosecution under this Act shall be instituted without the previous sanction of the Provincial Government or such officer as the Provincial Government may authorise in this behalf. Sanction for prosecution.

Bom. I of 1943.

10. The Bombay Rationing Preparatory Measures Act, 1943, is hereby repealed: Repeal.

Provided that—

(*i*) every authority granted under the repealed Act, and in force immediately before the coming into force of this Act, shall be deemed to be granted under this Act; and

(*ii*) all letters, marks and numbers, painted or re-painted on, or affixed or re-affixed to, any premises under the repealed Act shall be deemed to be painted or re-painted, or affixed or re-affixed to, any premises under this Act.

THE BOMBAY PRIMARY EDUCATION ACT, 1947.

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BOMBAY ACT No. LXI OF 1947.[1]

[THE BOMBAY PRIMARY EDUCATION ACT, 1947.]

[*29th January 1948.*]

Amended by Bom. 8 of 1949.

An Act to provide for compulsory primary education and to make better provision for the management and control of primary education in the Province of Bombay.

WHEREAS it is the duty of Government to secure the development and expansion of primary education; and whereas it is the declared policy of Government that universal, free and compulsory primary education should be reached by a definite programme of progressive expansion; and whereas it is expedient to make better provision for the development, expansion, management and control of primary education in the Province of Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Primary Education Act, 1947.

(*2*) It extends to the whole of the Province of Bombay except the City of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context—

(*1*) "Administrative Officer" means an officer appointed under section 21 or 22;

(*2*) "Approved school" means a primary school maintained by the Provincial Government or by a school board or by an authorized municipality or which is for the time being recognized as such by a school board or by the Provincial Government or by an officer authorized by it in this behalf;

(*3*) "Area of compulsion" means the area in which primary education up to any standard is compulsory;

(*4*) "Area of an authorized municipality" means the area comprised within the limits of such municipality and shall include the area of a non-authorized municipality approved schools in which vest in or are controlled by the authorized municipality;

(*5*) "To attend an approved school" means to be present for instruction at such school on such days and at such time and for such periods on each day as may be required under the regulations framed by the school board;

(*6*) "Authorized Municipality" means a municipality which is authorized by the Provincial Government under sub-section (*1*) of section 16 to control all approved schools within its area;

(*7*) "Child" means a boy or girl whose age is not less than six and not more than fourteen years at the beginning of the school year.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1947, Part V, page 328; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

Explanation.—For the purposes of this definition, "school year" shall mean the year beginning with such date as the school board may, with the sanction of the Director, fix;

(*8*) "Director" means the Director of Public Instruction for the Province of Bombay;

(*9*) "District" in clause (*h*) of section 5, in section 6, sub-section (*3*) of section 10, and section 19 means the district as formed under the Bombay Land Revenue Code, 1879, and elsewhere the area comprised in a district so formed excluding the areas of authorized municipalities and cantonments; Bom. V of 1879.

(*10*) "District School Board" means a school board constituted for a district under section 3;

(*11*) "Municipal School Board" means a school board constituted for the area of an authorized municipality under section 3;

(*12*) "Non-authorized Municipality" means a municipality other than an authorized municipality;

(*13*) "Parent" includes a guardian or any person who has the custody of a child;

(*14*) "Prescribed" means prescribed by rules made under this Act;

(*15*) "Primary Education" means education in such subjects and up to such standards as may be determined by the Provincial Government from time to time;

(*16*) "Primary Education Fund" means the fund maintained under section 44;

(*17*) "Primary School" means a school or a part of a school in which primary education up to any standard is imparted;

(*18*) "Provincial Board of Primary Education" means the board constituted under section 58;

(*19*) "School Board" means a district school board or a municipal school board, as the case may be.

CHAPTER II.

Constitution of District and Municipal School Boards.

School boards.

3. (*1*) For each district there shall be a district school board.

(*2*) For each area of an authorized municipality there shall be a municipal school board.

Constitution of school boards.

4. (*1*) Each school board shall consist of members not less than twelve and not more than sixteen in number.

(*2*) Of these members not less than two and not more than three in number shall be appointed by the Provincial Government.

(*3*) The number of members under sub-sections (*1*) and (*2*) shall be determined by the Provincial Government from time to time.

(*4*) Of the members appointed by the Provincial Government under sub-section (*2*) one shall be an officer of the Provincial Government; and the remaining shall be persons (*i*) who shall have passed the matriculation examination or shall possess any other equivalent or higher educational qualification which the Provincial Government may specify in this behalf or (*ii*) who have had experience of the system or institutions of primary education.

(*5*) (*a*) The members other than those appointed by the Provincial Government shall be elected by the district local board or the authorized municipality, as the case may be:

Provided that where approved schools within the area of any non-authorized municipalities are controlled by the district school board or the authorized municipality, not more than two of such members as may be determined by the Provincial Government from time to time shall be elected in the manner prescribed by the said non-authorized municipalities, on the district school board or municipal school board, as the case may be.

(*b*) Members elected under this sub-section shall not necessarily be members of the electing local authority.

[1][(*c*) Notwithstanding anything contained in this sub-section, in the case of a district local board or authorized municipality the term of office of the members or councillors of which expires on or before the 31st day of July 1949, the election of the members of the school board shall not be held by such district local board or authorized municipality, as the case may be, until after the new district local board or the authorized municipality, has been constituted.]

(*6*) Of the members elected by the district local board or by the authorized municipality—

(*a*) one at least shall be a woman ; and

(*b*) such number not exceeding three as may be prescribed shall be from amongst the minorities and backward communities.

(*7*) Members elected under sub-section (*5*) shall have passed the primary school certificate examination or shall possess such other equivalent or higher educational qualification as may be prescribed :

Provided that persons from amongst the backward communities shall be eligible for being elected as members if they shall have passed at least the primary fourth standard examination :

Provided further that out of the seats of the members to be elected by the district local board or the authorized municipality not less than three shall be reserved in the prescribed manner for persons who have passed the matriculation or second year training certificate examination.

Explanation.—For the purposes of sub-sections (*6*) and (*7*) "minorities" and "backward communities" shall mean such classes and communities as may be prescribed.

(*8*) If the Provincial Government is satisfied that any election (including a bye-election) cannot for any reason be held at all or cannot be completed within such period as the Provincial Government considers reasonable or has not resulted in the return of the required number of qualified persons willing to take office, the Provincial Government shall nominate from amongst persons who would have been qualified to be elected the required number of persons as members of the school board and the persons so nominated shall be deemed to have been duly elected under sub-section (*5*).

(*9*) Except as otherwise provided in this Act, the term of office of the members of a school board shall cease on the expiry of the term of the electing district local board or authorized municipality :

Provided that the term of office of such members shall not be deemed to expire by reason only of the fact that the district local board or authorized municipality, as the case may be, is dissolved or superseded.

(*10*) (*a*) If the term of office of the members of a school board expires during the supersession of the electing district local board or authorized municipality, a new school board shall be constituted as provided in sub-sections (*1*) to (*7*) until the

[1] This clause was inserted by Bom. 8 of 1949, s. 2 (*1*).

district local board or authorized municipality, as the case may be, is re-established, provided that the members of such school board shall be nominated by the Provincial Government.

(*b*) The term of office of the members of the school board so nominated shall be for such period not exceeding three years as the Provincial Government may determine :

Provided that if during such period the district local board or authorized municipality, as the case may be, is re-established, the term of office of the members of the school board shall expire on the date on which a new school board is constituted.

(*11*) Notwithstanding the expiry of the term of the members of any school board under sub-section (*9*) or (*10*) they shall continue in office until the members of a new school board are elected, appointed or nominated, as the case may be.

(*12*) (*a*) Any member of a school board other than the chairman or vice-chariman may resign his office by giving notice in writing to that effect to the chairman and such resignation shall take effect from the date of its receipt by the chairman.

(*b*) The vice-chairman may resign his office as vice-chairman or member by giving notice in writing to that effect to the chairman. The chairman may resign his office as chairman or member by giving notice in writing to that effect to the president of the district local board or of the authorized municipality, as the case may be. Such resignations shall take effect from the date of their acceptance by the chairman or the president.

(*13*) Casual vacancies including that of a chairman or vice-chairman during the term of a school board shall be filled for the remaining period by election, appointment or nomination, as the case may be :

[1][Provided that no election shall be held to fill up a vacancy of a member occurring within four months of the date on which the term of office of the members of the school board expires.]

[2][(*14*) During any vacancy the continuing members may act as if no vacancy had occurred.]

Disqualifications of members.

5. No person shall be elected, appointed or nominated a member of a school board who—

(*a*) is less than 25 years of age, or

(*b*) is a judge of civil court or a magistrate, or

(*c*) (*i*) has been sentenced by a criminal court to fine, imprisonment or whipping for an offence involving moral turpitude and punishable with imprisonment for a term exceeding six months or to transportation, such sentence not having been subsequently reversed or quashed, or

(*ii*) is a person against whom an order has been passed under section 118 of the Code of Criminal Procedure, 1898, in proceedings instituted under section 110 of the said Code, such order not having subsequently been reversed or quashed, or V of 1898

(*iii*) has been removed from office under this Act and five years have not elapsed from the date of such removal,

unless he has, by an order of the Provincial Government notified in the *Official Gazette*, been relieved from the disqualification arising on account of such sentence, order or removal from office, or

(*d*) is a stipendiary officer or an employee of any school board, or district local board or municipality, or

[1] This proviso was added by Bom. 8 of 1949, s. 2 (*2*).
[2] This sub-section was added, *ibid*, s. 2 (*3*).

(*e*) who has been adjudged an insolvent and has not obtained his discharge, or

(*f*) has, directly or indirectly, by himself or his partner, any share or interest in any work done by order of, or in any contract entered into on behalf of the school board or the electing local authority, or

(*g*) is an employee or a teacher in any approved school, or

(*h*) has resided within the district for a period of less than six months preceding the date fixed for recording of votes for elections to the school board, or

(*i*) has been adjudged by a competent court to be of unsound mind.

Explanation.—A person shall not be deemed to have incurred disqualification under clause (*f*) by reason of his—

(*a*) having any share or interest in any lease, sale or purchase of any immovable property or in an agreement for the same if before taking his seat as a member of the school board, he has obtained the sanction of the Provincial Government to have such share or interest, or

(*b*) having a share or interest in any joint stock company or in any society registered or deemed to be registered under the Bombay Co-operative Societies Act, 1925, which may contract with or be employed by or on behalf of the school board or the electing local authority, or

Bom. VII of 1925.

(*c*) having a share or interest in any newspaper in which any advertisement relating to the affairs of the school board or the electing local authority may be inserted, or

(*d*) holding a debenture or being otherwise interested in any loan raised by or on behalf of the school board or the electing local authority, or

(*e*) having a share or interest in the occasional sale to the school board or electing local authority of any article in which he regularly trades, or in the purchase from the school board or the electing local authority of any article, to a value in either case not exceeding in any official year five hundred rupees, or such higher amount not exceeding two thousand rupees as the school board or the electing local authority with the sanction of the Provincial Government may fix in this behalf, or

(*f*) having a share or interest in the occasional letting out on hire to the school board or the electing local authority or in the hiring from the school board or the electing local authority of any article for an amount not exceeding in any official year fifty rupees, or such higher amount not exceeding two hundred rupees as the school board or the electing local authority with the sanction of the Provincial Government may fix in this behalf, or

(*g*) being a police patel who is an *ex-officio* keeper of village cattle pounds under the control of the electing local authority.

Determination of validity of elections; enquiry by Judge; procedure.

6. (*1*) If the validity of the election of a member of a school board is brought in question by an unsuccessful candidate or by any person qualified to vote at the election, such person may, at any time within fifteen days after the date of the declaration of the result of the election, apply to the District Judge of the district within which the election has been or should have been held for the determination of such question.

(*2*) An enquiry shall thereupon be held by a Judge not below the grade of an Assistant Judge and such Judge may, after such enquiry as he deems necessary, pass an order confirming or amending the declared result of the election or setting the election aside. For the purposes of the said enquiry, the said Judge may

exercise any of the powers of a civil court, and his decision shall be conclusive. If he sets aside an election, a date shall forthwith be fixed, and the necessary steps taken for holding a fresh election.

(*3*) All applications received under sub-section (*1*)—

(*a*) in which the validity of the election of members is in question shall as far as possible, be heard by the same Judge, and

(*b*) in which the validity of the election of the same member is in question shall be heard together.

(*4*) Notwithstanding anything contained in the Code of Civil Procedure, 1908, the Judge shall not allow (*a*) any application to be compromised or withdrawn, or (*b*) any pleadings in the proceedings to be altered or amended, unless he is satisfied that such application, alteration or amendment is *bona fide* and not collusive. V of 1908.

(*5*) (*a*) If on holding such enquiry the Judge finds that a candidate has for the purpose of the election committed a corrupt practice within the meaning of sub-section (*6*), he shall declare the candidate disqualified both for the purpose of that election and of such fresh election as may be held under sub-section (*2*), and shall set aside the election of such candidate if he has been elected.

(*b*) If, in any case to which clause (*a*) does not apply, the validity of an election is in dispute between two or more candidates, the Judge shall after a scrutiny and computation of the votes recorded in favour of each such candidate, declare the candidate who is found to have the greatest number of valid votes in his favour to have been duly elected :

Provided that for the purpose of such computation no vote shall be reckoned as valid if the Judge finds that any corrupt practice was committed by any person, known or unknown, in giving or obtaining it.

(*6*) A person shall be deemed to have committed a corrupt practice—

(*a*) who, with a view to inducing any voter to give or refrain from giving a vote in favour of any candidate, offers or gives any money or valuable consideration, or holds out any promise of individual profit or holds out any threat of injury to any person ; or

(*b*) who gives, procures or abets the giving of a vote in the name of a voter who is not the person giving such vote ;

and a corrupt practice shall be deemed to have been committed by a candidate, if it has been committed with his knowledge and consent, or by a person who is acting under the general or special authority of such candidate with reference to the election.

Explanation.—The expression "a promise of individual profit"

(*i*) does not include a promise to vote for or against any particular measure which may come before a school board for consideration, but

(*ii*) subject thereto, includes a promise for the benefit of the person himself or any person in whom he is interested.

(*7*) If the validity of the election is brought in question only on the ground of an irregularity or informality which has not materially affected the result of the election or which has not been corruptly caused, the Judge shall not set aside the election.

(*8*) If the Judge sets aside an election under clause (*a*) of sub-section (*5*) he may, if he thinks fit, declare any person by whom any corrupt practice has been committed within the meaning of sub-section (*6*) to be disqualified from being a member of any school board for a term of years not exceeding five and the decision of the Judge shall be conclusive :

Provided that no such declaration shall be made in respect of any person without such person being given an opportunity to show cause why such declaration should not be made :

Provided further that such person may by an order of the Provincial Government in that behalf be at any time relieved from such disqualification.

Disqualification after becoming member.

7. (*1*) If any member of a school board, during the term for which he has been elected, appointed or nominated—

(*a*) absents himself during three successive months from the meetings of the school board without the previous permission of the board, or

(*b*) becomes subject to any of the disqualifications mentioned in section 6, he shall be disabled from continuing to be a member of such board and his seat shall be deemed to be vacant:

Provided that he shall not be deemed to have incurred any disqualification under clause (*f*) of section 5 by reason of his having any share or interest in any lease, sale or purchase of any immovable property or in any agreement for the same, if he has obtained the previous sanction of the Provincial Government to have such share or interest.

(*2*) If any question, dispute or doubt arises whether a vacancy has occurred under this section, the orders of the Provincial Government shall be final for the purpose of deciding such question, dispute or doubt.

Disabilities on account of interest in subject-matter.

8. A member shall not vote or take part in a discussion on any matter before a meeting of a school board in which he has directly or indirectly, by himself or his partner, any share or interest such as is described in clause (*f*) of section 5 or in which he is professionally interested on behalf of a client, principal or other person. The vote so given shall not be counted.

Removal of members of school board for misconduct.

9. The Provincial Government may on its own motion or on the recommendation supported by a resolution passed by at least two-thirds of the whole number of members of—

(*i*) a school board, or

(*ii*) the district local board or the authorized municipality which elected the member,

remove any member elected, appointed or nominated on the school board, if such member has been guilty of misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member by reason of any physical or mental infirmity:

Provided that no person shall be so removed nor shall any resolution recommending the removal of any member be passed unless the member to whom it relates has been given a reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be made.

Election of chairman and vice-chairman.

10. (*1*) Every school board shall elect a chairman and a vice-chairman from amongst the members of the board.

(*2*) A chairman or a vice-chairman shall be removable from office by a resolution passed to that effect, provided that at least two-thirds of the total number of members of the school board vote in favour of such resolution or where the number of such members voting in favour of such resolution is less than two-thirds but more than one-half of the total number of members of the school board, sanction is accorded by the Provincial Government for such removal and provided, further, that before such resolution is passed, the chairman or vice-chairman is given at least two weeks' notice of such resolution and a reasonable opportunity of showing cause why such resolution should not be passed.

(*3*) Every chairman or vice-chairman who, for a continuous period exceeding three months, absents himself from the district without leave of the school board shall cease to be chairman or vice-chairman.

(*4*) No leave shall be granted by the school board under sub-section (*3*) for a total period exceeding six months during the term of the school board.

(*5*) Whenever leave is granted to a vice-chairman under sub-section (*3*), a member shall be elected to be vice-chairman during the period of such leave.

CHAPTER III.

POWERS, DUTIES AND FUNCTIONS OF DISTRICT SCHOOL BOARDS, AUTHORIZED MUNICIPALITIES AND MUNICIPAL SCHOOL BOARDS.

A. *District School Boards.*

Incorporation of district school boards.

11. Every district school board shall be a body corporate by the name of "The District School Board of.....", and shall have perpetual succession and a common seal and may sue and be sued in its corporate name, and shall be competent to acquire and hold property both moveable and immovable, whether within or without the limits of its area, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it, and to contract and do all things necessary for the purposes of this Act.

Vesting of property in and absorption of staff by district school board.

12. (*1*) Notwithstanding anything contained in any law, [1][on the date of the coming into force of this Act (hereinafter in this section referred to as "the said date")] all primary schools with their lands, buildings, records and equipment and all other properties, moveable or immovable, which were vested in, held by or were under the control of [2][a district local board] for the purposes of primary education immediately before [3][the said date] shall, on [4][the said date] be vested in, held by or be under the control of the district school board for the said purposes:

Provided that in the event of any question, dispute or doubt arising as to whether any particular property shall so vest in or be held by or be under the control of the district school board, the matter shall be referred to the Provincial Government whose decision thereon shall be final.

(*2*) [5][On the said date] every district local board shall transfer and every district school board shall take over and employ such primary school teachers and other persons as were employed by or under the district local board on [6][the said date] for the purposes of primary education, on the same terms and conditions on which such teachers or persons were employed by or under the said district local board.

(*3*) The existing and future rights, liabilities, duties and powers of the district local board in respect of such teachers or other persons so far as they are not inconsistent with the provisions of this Act or the rules or regulations made thereunder shall vest in and be performed or exercised by the said district school board on and as from [7][the said date.]

Powers, duties and functions of district school boards

13. (*1*) Subject to the provisions of this Act and the rules made thereunder, the district school board shall have control over all approved schools within the district and may grant aid to any approved school other than a primary school maintained by the Provincial Government or by a school board or by an authorized municipality.

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[1] This portion was substituted for the words "on the constitution of a district school board under section 4" by Bom. 8 of 1949, s. 3.

[2] These words were substituted for the words "the district local board", *ibid.*

[3] These words were substituted for the words "the date on which the school board was constituted", *ibid.*

[4] These words were substituted for the words "such date", *ibid.*

[5] These words were substituted for the words "on a date notified by the Provincial Government in this behalf", *ibid.*

[6] These words were substituted for the words "such date", *ibid.*

[7] These words were substituted for "the date notified under sub-section (*2*)", *ibid.*

(2) Subject to the provisions of this Act and the rules made thereunder, and so far as its primary education fund will allow, the district school board shall perform the following duties and functions :—

(a) to provide for the welfare of the children attending primary schools;

(b) to maintain an adequate number of primary schools;

(c) to provide adequate accommodation and equipment for primary schools;

(d) to maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, teachers, inferior servants and other staff as may in the opinion of the Provincial Government be necessary;

(e) to maintain an adequate number of engineering staff required for the construction and maintenance of schools and other buildings;

(f) to determine, on the recommendation of the Administrative Officer, the distance measured according to the nearest road between an approved school and the residence of a child for purposes of clause (c) of section 33;

(g) to determine with the approval of the Educational Inspector the hours of instruction and the number and duration of vacations;

(h) to determine the exact location of primary schools;

(i) to grant on the recommendation of the Administrative Officer exemption from attending an approved school to a child who is receiving instruction otherwise than in an approved school;

(j) to sanction all tenders for the supply of forms, stationery, furniture or equipment;

(k) to suggest the opening of additional schools for the sanction of the Provincial Government;

(l) to recommend to the Director such modifications in the curriculum as may seem necessary to suit local requirements;

(m) to advise the Provincial Government generally in respect of primary education within the district;

(n) to carry on propaganda for the expansion of primary education;

(o) to perform such other duties and functions as may be prescribed.

(3) The district school board shall from time to time with the sanction of the Director make regulations not inconsistent with the provisions of this Act and the rules made thereunder for—

(i) laying down the days, the time and the periods on each day during which a child shall be present for instruction at an approved school;

(ii) determining the constitution, powers and duties of the taluka advisory committees;

(iii) the supply of books, slates, educational requisites, milk, meals or clothes to children of any age receiving primary education, if provision for such supply is made.

Relinquishment of powers and duties.

14. (1) The district school board may, by a resolution passed by at least two-thirds of the whole number of members of the board, and with the consent of the District Local Board, intimate to the Provincial Government that it desires to relinquish its powers and duties excepting the duties of advising and of carrying on propaganda for the expansion of primary education.

(2) If, on receipt of such intimation, the Provincial Government so directs, all powers and duties of the district school board, other than those so excepted, shall from such date and for such period as may be notified by the Provincial Government in this behalf be exercised and performed on behalf of the Provincial Government in the prescribed manner.

(*3*) All primary schools with their lands, buildings, records and equipment and all other properties, moveable or immovable, which were vesting in, held by or were under the control of the district school board immediately before the date notified by the Provincial Government under sub-section (*2*) shall vest in, be held by or be under the control of the Provincial Government during the period notified under the said sub-section.

Constitution of taluka advisory committee.

15. The district school board may by a resolution recommend to the Provincial Government the establishment of taluka advisory committees for all or any of the talukas in the district to advise it in respect of primary education. On such recommendation being accepted by the Provincial Government such committees shall be constituted from a date to be notified by the Provincial Government in the *Official Gazette*. The constitution, powers and duties of the committees shall be as laid down in the regulations made by the district school board :

Provided that the Provincial Government may on its own motion or on the recommendation of the district school board supported by at least two-thirds of the whole number of members of the board by an order dissolve a taluka advisory committee from a date to be notified in the *Official Gazette*.

B. *Authorized Municipalities.*

Authorized municipalities to exercise powers, etc. and hold properties of local authority municipalities.

16. (*1*) The Provincial Government may authorize any municipality constituted under the Bombay District Municipal Act, 1901, or under the Bombay Municipal Boroughs Act, 1925, to control all approved schools within its area. Bom. III of 1901. Bom. XVII of 1925.

(*2*) Subject to the provisions of this Act and of the rules and regulations made thereunder, all existing and future rights, liabilities, powers and duties of any municipality, which was a local authority under the Bombay Primary Education Act, 1923, immediately before the date of the coming into force of this Act, in respect of primary school teachers and other persons employed by it for the purposes of primary education shall on such date vest in and be performed or exercised by the said municipality as an authorized municipality under this Act ; and all properties, moveable and immovable, vesting in or held by or under the control of such municipality for the purposes of primary education, shall from such date continue to vest in, be held by or be under the control of the said municipality as such authorized municipality. Bom. IV of 1923.

Duties and functions of authorized municipalities.

17. (*1*) Subject to the provisions of this Act and the rules made thereunder an authorized municipality shall perform the following duties and functions, namely :—

(*a*) to make adequate provision for maintaining the existing primary schools and opening new schools wherever necessary and for granting aid to approved schools other than primary schools maintained by the Provincial Government or by a school board or by an authorized municipality ;

(*b*) to provide adequate accommodation and equipment for primary schools ;

(*c*) to maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, teachers, inferior servants and other staff as may in the opinion of the Provincial Government be necessary ;

(*d*) to make adequate provision for facilities for the free primary education of all children to whom a scheme of compulsion applies ;

(*e*) to sanction with or without variation the budget of the municipal school board ;

(*f*) to perform such other duties and functions as may be prescribed.

(*2*) The authorized municipality may, subject to the provisions of this Act and the rules made thereunder, also make provision for the welfare of the children attending primary schools within its area.

(*3*) The authorized municipality shall, subject to the sanction of the Provincial Government, make regulations—

(*i*) determining the qualifications, pay and terms of employment of the Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, inferior servants and other staff;

(*ii*) regulating the administration, management and control of primary schools;

(*iii*) determining the qualifications, pay and terms of employment of the Administrative Officer appointed by it under section 22;

(*iv*) for the supply of books, slates, educational requisites, milk, meals or clothes to children receiving primary education, if provision of such supply is made.

C. *Municipal School Boards.*

Powers, duties and functions of municipal school boards.

18. (*1*) Subject to the provisions of this Act and the rules made thereunder, the municipal school board shall be responsible for the management and control of all primary schools which vest in the authorized municipality and for the control of all other approved schools within the area of the authorized municipality excepting such as are maintained by the Provincial Government; and the board shall exercise such powers and perform such duties and functions of the authorized municipality in respect of primary education as may be prescribed.

(*2*) Subject to the provisions of this Act and the rules made thereunder, a municipal school board shall perform the following duties and functions, namely :—

(*a*) to prepare schemes to be submitted by the authorized municipality to the Provincial Government for expansion of primary education and to carry out the provisions of such scheme;

(*b*) to disburse monies from the primary education fund in accordance with the budget sanctioned by the authorized municipality;

(*c*) to perform the duties and functions specified in clauses (*f*) to (*j*) and (*l*) and (*n*) of sub-section (*2*) of section 13;

(*d*) to perform such other duties and functions as may be prescribed.

(*3*) The municipal school board shall, with the sanction of the Director, make regulations laying down the days, the time and the periods on each day during which a child shall be present for instruction at an approved school.

CHAPTER IV.

NON-AUTHORIZED MUNICIPALITIES.

Exercise of powers, etc. and holding of property in respect of non-authorized municipalities.

19. (*1*) Subject to the provisions of this Act and of the rules made thereunder all properties moveable and immovable vesting in, held by or under the control of any non-authorized municipality for the purpose of primary education shall vest in, be held by or be under the control of the district school board of the district in which it is situated or such authorized municipality as the Provincial Government may specify with the consent of the authorized municipality; and all existing and future rights, liabilities, powers and duties of any such non-authorized municipality in respect of primary school teachers and other persons employed by it for such purposes shall vest in and be performed or exercised under this Act and all approved schools within the area of such non-authorized municipality shall be controlled by the said district school board or the authorized municipality, as the case may be.

(*2*) The Provincial Government may, at any time by an order published in the *Official Gazette* together with the reasons therefor, direct that any authorized municipality shall, with effect from a date specified in this behalf, cease to be an authorized municipality; and with effect from such date the said municipality shall be a non-authorized municipality. The provisions of sub-section (*1*) shall thereupon apply in the case of such municipality.

(*3*) If any non-authorized municipality is at any time authorized by the Provincial Government to control all approved schools within its area, the said municipality shall thereafter be an authorized municipality. Thereupon all properties moveable or immovable vesting in, held by or under the control of a district school board or an authorized municipality for the purposes of primary education in such area shall vest in, be held by or be under the control of such first mentioned municipality; and all existing and future rights, liabilities, powers and duties in respect of primary school teachers and other persons employed by such district school board or authorized municipality for the purposes of primary education in such area shall also vest in and be performed or exercised by the said first mentioned municipality.

CHAPTER V.

ADMINISTRATIVE MACHINERY.

District school board, authorized municipality to maintain adequate staff, pay, etc.

20. (*1*) Every district school board with the approval of the Provincial Government and every authorized municipality shall maintain an adequate staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, primary school teachers and inferior servants and other staff (including engineering staff), as may in the opinion of the Provincial Government be necessary for the administration, management and control of approved schools within its area.

(*2*) The staff maintained under sub-section (*1*) shall be servants of the district school board or of the authorized municipality, as the case may be, and shall receive their pay, allowances, provident fund, gratuities and pensions from its primary education fund.

(*3*) The rates of the pay and allowances and terms of employment in respect of all the members of the staff maintained by a district school board and of the primary school teachers maintained by an authorized municipality shall be as fixed from time to time by the Provincial Government.

(*4*) The Provincial Government may from time to time prescribe the duties to be performed by the staff maintained under sub-section (*1*).

Administrative Officer.

21. (*1*) For every school board there shall be an Administrative Officer. He shall be the chief executive officer of the board; his powers and duties shall be as prescribed.

(*2*) The Administrative Officer shall be appointed by and shall be a servant of the Provincial Government. He shall draw his pay and allowances from the provincial revenues.

Delegation of power to appoint Administrative Officer to certain authorized municipalities.

22. (*1*) Notwithstanding the provisions of section 21, the Provincial Government may by notification in the *Official Gazette* delegate the power to appoint an Administrative Officer to an authorized municipality which is a municipality constituted under the Bombay Municipal Boroughs Act, 1925, and the annual expenditure of which on primary education is not less than Rs. 1,00,000 for three financial years immediately preceding the date of the notification. The Administrative Officer so appointed shall be the servant of the authorized municipality and shall draw his pay, allowances, provident fund, gratuity and pension from its primary education fund. Bom. XVIII of 1925.

(*2*) The appointment of such Administrative Officer shall be made after inviting and considering the suggestions, if any, of the municipal school board and with the approval of the Provincial Government. No such officer shall, save with the previous sanction of the Provincial Government, be removed from his office, reduced or suspended except by a resolution passed by at least two-thirds of the whole number of councillors of the authorized municipality.

(*3*) The qualifications, pay, allowances and terms of employment of such Administrative Officer shall be in accordance with the regulations framed by the authorized municipality with the sanction of the Provincial Government.

23. (*1*) There shall be a staff selection committee for every district school board or authorized municipality. Staff selection committee.

(*2*) The staff selection committee shall consist of the Educational Inspector of the division or any other officer designated by the Director, the chairman of the school board and the Administrative Officer.

(*3*) The Administrative Officer shall act as secretary of the staff selection committee.

(*4*) The committee shall select candidates for appointments as Assistant Administrative Officers, Supervisors, Attendance Officers and teachers; and in the case of district school boards, also members of the other staff excluding inferior servants. The Committee shall also select teachers to be deputed for training. The selection of candidates and teachers shall be made in accordance with the instructions issued by the Provincial Government.

(*5*) The school board or the authorized municipality or the Aministrative Officer, as the case may be, shall make appointments of the candidates so selected in accordance with the directions given by the staff selection committee.

24 (*1*) The Administrative Officer shall have power, subject to such general instructions as may be issued from time to time by the Director, to promote, transfer and take all disciplinary action (including removal or dismissal) against the staff maintained under section 20. Powers of Administrative Officers over school board staff.

(*2*) Any person aggrieved by an order of dismissal, removal, reduction or any other order involving disciplinary action made under sub-section (*1*), may submit an appeal to a tribunal consisting of the chairman of the school board and the Educational Inspector of the division. The tribunal shall follow the prescribed procedure for the disposal of its business. In the event of a difference of opinion between the members of the tribunal the appeal shall be referred to the Director whose decision shall be final:

Provided that a primary school teacher who is a guaranteed teacher on the date of the coming into force of this Act, may make a further appeal to the Provincial Government against any order of removal or dismissal.

Explanation.—A guaranteed teacher means a primary school teacher who was holding a permanent appointment as such teacher on 30th June 1923.

(*3*) An appeal under sub-section (*2*) shall be made within 30 days from the date of the order appealed against.

CHAPTER VI.

Preparation and Enforcement of the Schemes of Compulsion.

25. It shall be the duty of the Administraitve Officer of a district school board to prepare in accordance with the directions received from the Director in this behalf a scheme to provide compulsory primary education in such area and for children of such ages and up to such standard and within such period as the Director may Preparation of scheme.

specify. The Administrative Officer shall obtain the comments and suggestions of the district school board upon the scheme so prepared by him and shall submit it together with such comments and suggestions, if any, to the Director who shall forward it to the Provincial Government with his remarks.

Preparation of scheme by authorized municipality.

26. (*1*) An authorized municipality may by a resolution declare its intention to provide compulsory primary education in the whole or any part of its area in the case of children of such ages and up to such standard as the municipality may decide and shall submit its proposals to the Provincial Government through the Director in the form of a scheme.

(*2*) An authorized municipality, if called upon by the Provincial Government so to do, shall within a time to be specified by the Provincial Government submit to the Director a scheme to provide compulsory primary education in such area and in the case of children of such ages and up to such standard and within such period as the Provincial Government may specify.

Particulars to be contained in scheme.

27. The scheme submitted under the two preceding sections shall be in the form prescribed and shall contain the following particulars :—

(*a*) area of compulsion ;

(*b*) the census of children of the ages to which the scheme shall apply classified by languages spoken by the children ;

(*c*) a list of existing approved schools and the schools proposed to be opened, classified by languages in which instruction is given or is proposed to be given ;

(*d*) a schedule of existing and proposed staff of Assistant Administrative Officers, Supervisors, Attendance Officers, clerks, teachers and inferior servants ;

(*e*) the recurring and non-recurring cost of the scheme and in the case of a scheme submitted by an authorized municipality the resolution of the municipality agreeing to bear its share of the additional recurring and non-recurring cost ;

(*f*) if there is a non-authorized municipality within the area of compulsion, the amount of annual contribution, which the municipality according to the orders issued by the Provincial Government under sub-section (*2*) of section 41 shall make.

Sanction of Provincial Government to scheme.

28. (*1*) The Provincial Government may after such inquiry as may be necessary sanction with or without modifications the scheme submitted under section 25 or 26. The scheme so sanctioned shall come into effect from such date as may be notified by the Provincial Government in the *Official Gazette*.

(*2*) Every scheme of compulsion sanctioned under the Bombay Primary Education Act, 1923, and which is in force immediately before the coming into force of this Act shall be deemed to be a scheme sanctioned under this Act. Bom. IV of 1923.

Modification, etc., of sanctioned schemes.

29. A sanctioned scheme may with the sanction of the Provincial Government be withdrawn or from time to time modified by an authorized municipality, or may by an order published with the reasons for making it in the *Official Gazette* be modified, cancelled or temporarily suspended by the Provincial Government.

Power to exempt children of particular classes.

30. The Provincial Government may by notification in the *Official Gazette* exempt children of either sex of any particular class or community in any area of compulsion or part thereof from the operation of this Act.

No fees to be charged in area of compulsion.

31. When a scheme has been sanctioned, no fee shall be charged within the area of compulsion in any school maintained by the district school board or the authorized municipality, as the case may be, in respect of any child for the standards included in the scheme.

32. In every area of compulsion, the parent of every child to whom a scheme applies shall in the absence of a reasonable excuse as hereinafter provided and if such parent and child ordinarily reside in such area cause such child to attend an approved school in such area. Duty of parent to cause children to attend school.

33. A parent shall be deemed to have a reasonable excuse for failure to cause a child to attend an approved school in any of the following cases :— Meaning of reasonable excuse.

(*a*) where the child is prevented from attending school by sickness, infirmity or other unavoidable cause ;

(*b*) where the child is receiving, otherwise than in an approved school, instruction which in the opinion of the school board is efficient or has received from the school board a certificate of having already completed his primary education up to the standard included in the scheme ;

(*c*) where there is no approved school within the distance fixed by the school board under section 13 or 18, as the case may be ;

(*d*) where after due application, entrance to an approved school has been refused to the child and there is no other approved school to which he can be admitted within the distance fixed under section 13 or 18, as the case may be, until such time as the parent is notified by the Administrative Officer that the child can be admitted ;

(*e*) where there is no approved school in the locality in which instruction is given in the language spoken by the child ;

(*f*) where there is no approved school in the locality to which the parent can send the child without exposing him to religious instruction to which the parent objects.

34. (*1*) Where the school board is satisfied that the parent of any child who is bound under the provisions of section 32 to cause such child to attend an approved school, has failed to do so, the school board after giving the parent an opportunity of being heard and after such inquiry as it considers necessary may make an order directing the parent to cause such child to attend an approved school on and from a date which shall be specified in the order. Issue of attendance order.

(*2*) This power may be delegated by the school board to any of its members or to the Administrative Officer or other officer of the school board.

(*3*) Any parent aggrieved by an order made under sub-section (*1*) may, within thirty days from the date of such order, appeal to the Educational Inspector of the division who may confirm or rescind the order as he deems fit.

35. (*1*) Any parent against whom an order with reference to a child has been made under sub-section (*1*) of section 34 and who fails to comply with the provisions of section 32 with respect to such child on or after the date specified in such order shall, unless such order is rescinded in an appeal made under sub-section (*3*) of the said section 34,— Penalty for failure to cause child to attend approved school.

(*i*) if he resides in a town or village where there is a magistrate, on conviction by such Magistrate ; or

(*ii*) if he resides in a village having a panchayat, on conviction by village bench ; or

(*iii*) if he resides elsewhere, on conviction by a person empowered in this behalf by the District Magistrate,

be liable to a fine not exceeding two rupees and if such failure continues after such conviction, he shall also on conviction by such Magistrate, village bench, or person be liable to a fine of eight annas for every day that the failure continues or is repeated.

(*2*) No magistrate, village bench or person shall take cognizance of an offence under sub-section (*1*) except on the complaint filed by the Administrative Officer or any other officer authorized by him in this behalf.

Penalty for employing child to whom scheme applies.

36. (*1*) Whoever knowingly takes into his employment, either on his own behalf or on behalf of any other person, any child in respect of whom the provisions of section 32 apply, so as to interfere with the education or instruction of such child shall, on conviction, be liable to a fine not exceeding twenty-five rupees.

(*2*) No court shall take cognizance of an offene under this section except on the complaint of the Administrative Officer or any other officer authorized by him in this behalf, and before making any complaint under this section against any person the Administrative Officer or such officer shall unless such person has been previously convicted under sub-section (*1*) cause a warning to be given to such person.

Administrative Officer to be public servant.

37. For the purposes of sections 35 and 36 the Administrative Officer shall be deemed to be a public servant within the meaning of proviso (*aa*) to section 200 of the Code of Criminal Procedure, 1898. V of 1898.

CHAPTER VII.

APPROVED SCHOOLS.

Subjects, curricula, etc., of approved schools.

38. The subjects, curricula, books and standards of teaching of approved schools shall be such as may from time to time be specified by the Provincial Government.

Recognition of and grants to approved schools under private management.

39. (*1*) Every primary school, other than a primary school maintained by the Provincial Government or by a school board or by an authorized municipality, which fulfils the conditions prescribed in this behalf shall be entitled to recognition as an approved school.

(*2*) Such recognition shall be given by the school board or by the Provincial Government or by an officer authorized by it in this behalf; and the manner in which grant-in-aid is to be given to such approved school shall be as prescribed.

Inspection of approved schools: returns.

40. (*1*) Every approved school shall be open during school hours to inspection by the inspecting officers of the Provincial Government for the purpose, in particular, of ascertaining—

(*a*) whether instruction is given in accordance with the provisions of section 38;

(*b*) whether the provisions of this Act for the compulsory attendance of children are being carried out;

(*c*) whether the health of the school children is satisfactory;

(*d*) whether the instruction given is not of a pernicious nature;

(*e*) whether the registers and records are being maintained as required by the Director.

(*2*) The Administrative Officer and the manager of an approved school shall furnish such returns and supply such information as the Director may from time to time require, and shall give reasonable facilities to officers appointed under sub-section (*1*) of section 48 and to any officer specially deputed under this sub-section by the Director in the discharge of their duties.

CHAPTER VIII.

FINANCIAL RELATIONS BETWEEN THE PROVINCIAL GOVERNMENT AND LOCAL BODIES.

Payment to be made by district local board and non-authorized municipality.

41. (*1*) Every district local board shall pay over annually to the district school board for the purposes of primary education such portion of its income from its revenue described in clauses (*b*) and (*c*) of section 75 of the Bombay Local Boards Act, 1923, as the Provincial Government may from time to time fix in this behalf.

Bom. VI of 1923.

(*2*) Every non-authorized municipality shall pay over annually to the district school board or the authorized municipality, as the case may be, for the purposes of primary education such proportion of the rateable value of properties in the area of the municipality as may from time to time be fixed in this behalf by the Provincial Government and the income accruing from any funds (including trust funds) held, and all moneys received by it for the said purposes.

Contribution by Provincial Government.

42. (*1*) If a scheme submitted by an authorized municipality is sanctioned under section 28, the Provincial Government shall bear half of the additional recurring and non-recurring annual cost of the scheme so sanctioned; but the liability of the Provincial Government shall not exceed half of the said cost, as it was estimated by the authorized municipality.

(*2*) Nothing in this section shall affect the claim of any authorized municipality to any annual grant which at the time this Act comes into force is being paid to it as a local authority under the Bombay Primary Education Act, 1923, by the Provincial Government for the purposes of primary education:

Bom. IV of 1923.

Provided that, if the Provincial Government considers that the primary education fund of any authorized municipality has been or is about to be misused or misapplied, or misapplied, it may call upon such authorized municipality for an explanation of such misuse or misapplication; and if not satisfied with the explanation given may make such reduction in the grants payable to such authorized municipality as it may deem proper.

(*3*) The Provincial Government shall pay to a district school board a grant equivalent to the amount by which expenditure in accordance with the budget sanctioned under the next following section exceeds the receipts referred to in clauses (*b*) to (*d*) and (*g*) of sub-section (*2*) of section 44.

District school board budget.

43. The budget of the district school board shall in the prescribed manner be framed and submitted to the Provincial Government and the Provincial Government may sanction it with such modifications as it may deem fit to make therein.

Primary education fund.

44. (*1*) A fund called the primary education fund shall be maintained by every district school board and by every authorized municipality.

(*2*) The following shall form part of, or be paid into, the primary education fund:—

(*a*) the balance of the primary education fund maintained under section 8A of the Bombay Primary Education Act, 1923;

Bom. IV of 1923.

(*b*) the contributions payable by non-authorized municipalities under sub-section (*2*) of section 41;

(*c*) fees and fines received in respect of primary schools maintained by the school board or the authorized municipality, as the case may be;

(*d*) in the case of a district school board, such portion of the income of the district local board as the Provincial Government may fix under sub-section (*1*) of section 41;

(*e*) in the case of an authorized municipality, the grant paid or payable by the authorized municipality on account of primary education;

(*f*) the grant paid or payable by the Provincial Government on account of primary education;

(*g*) such other sums as may from time to time be received on account of primary education.

Explanation.—For the purposes of clause (*e*) the grant payable by an authorized municipality shall be the amount of expenditure on account of primary education in any year less the grant paid by the Provincial Government in that year, and fees and sums of money from other sources of income belonging to the fund.

Application of primary education fund.

45. (*1*) The primary education fund shall stand in thename of the school board and shall, subject to the provisions of this Act, be applied for the purposes specified therein and for such other purposes as may be prescribed.

(*2*) The fund shall be maintained, administered and used in the manner prescribed.

Deposit of primary education fund.

46. (*1*) The primary education fund shall be kept in the Government treasury or in the bank to which the Government treasury business has been made over or in such other bank or co-operative society registered or deemed to have been registered under the Bombay Co-operative Societies Act, 1925, as may be approved by the Provincial Government. Bom. VII of 1925.

(*2*) It shall be lawful for the school board to invest such portion of the primary education fund as is not likely to be immediately required in post office cash certificates or in securities of the Central Government or any Provincial Government.

(*3*) Every investment in Government securities shall be made through the Reserve Bank of India or any other bank approved by the Provincial Government in this behalf.

Payment of travelling allowances to chairman, vice-chairman and members of school board.

47. The chairman, vice-chairman and members of the school board may be paid allowances for expenses incurred by them in travelling for the purposes of the business of the school board at such rates and subject to such conditions as may be prescribed.

CHAPTER IX.

CONTROL.

Inspecting staff.

48. (*1*) The Provincial Government may appoint such officers (including inspecting officers) as it may deem necessary for the purposes of superintendence and inspection and generally for the purposes of giving effect to the provisions of this Act.

(*2*) The officers appointed under sub-section (*1*) shall be the servants of the Provincial Government, and their powers and duties shall be such as may be prescribed.

Inspecting officers to be present at school board meetings. Powers of supervision.

49. (*1*) An inspecting officer nominated by the Director in this behalf shall have the right of being present at any meeting of the school board, and with the consent of the chairman, of taking part in the discussions thereat, but he shall not be entitled to vote upon, or move any resolution, at such meeting.

(*2*) The Director or Educational Inspector or any officer authorized by a general or special order of the Provincial Government may—

(*a*) (*i*) enter on and inspect any immovable property occupied for any purpose connected with primary education by a school board or authorized municipality or any educational institution under its control or management; or

(*ii*) cause such property or institution to be entered upon and inspected by any other person authorized by him in this behalf;

(*b*) call for any extract from the proceedings of any authorized municipality or school board, or of any committee appointed by any of them relating to any matter connected with primary education; or

(*c*) call for and inspect any book or document relating to any matter connected with primary education in the possession or under the control of an authorized municipality or school board.

50. The Director may—

Power to call for return or require explanation, etc.

(*a*) call for from any authorized municipality or school board or Administrative Officer any return, statement, account or report relating to any matter connected with primary education,

(*b*) call upon an authorized municipality or school board to take into consideration any objection which appears to him to exist to the doing of anything connected with primary education which is about to be done by such municipality or board or any information furnished by him which appears to him to necessitate the doing of a certain thing by such municipality or board and to make a written reply to him within a reasonable time, stating in case of disagreement with the Director its reasons for not desisting from doing or for not doing such a thing.

51. (*1*) If, in the opinion of the Director, the execution of any order or resolution of a school board or the doing of anything which is about to be done or is being done by or on behalf of the board is in excess of the powers conferred by, or contrary to, this Act or the rules or regulations made thereunder, or is otherwise unlawful, he may, by order in writing under his signature, suspend the execution or prohibit the doing thereof.

Power of suspending execution of orders, etc. of school board.

(*2*) When the Director makes an order under sub-section (*1*), he shall forthwith forward to the board affected by it a copy of such order with a statement of the reasons for making it.

(*3*) The Director shall forthwith submit to the Provincial Government a report of every case occurring under this section and the Provincial Government may annul, confirm, revise or modify any order made therein and make in respect thereof any other order:

Provided that no order of the Director passed under this section shall be confirmed, revised or modified by the Provincial Government without giving the board reasonable opportunity of showing cause against the said order.

52. (*1*) If any authorized municipality when called upon makes default in preparing a scheme or after a scheme has been sanctioned omits to make adequate provision for compulsory primary education in accordance with a scheme as sanctioned and to bring into operation or continue to keep in operation such scheme, the Provincial Government may after due inquiry appoint a person to prepare the scheme or bring it into operation or to continue to keep it in operation, as the case may be, and the expense thereof shall be paid by the authorized municipality to the Provincial Government.

Default by authorized municipality.

(*2*) If the expense is not so paid the Provincial Government may make an order directing any person who has for the time being custody of any moneys on behalf of the authorized municipality either as banker or in any relation to pay such expense from such moneys as he may have in his hands or may from time to time receive and such person shall be bound to obey such order.

Power of Provincial Government to provide for performance of duties on default by school board.

53. (*1*) When the Provincial Government is informed that a school board has made a default in performing any duty imposed on it by or under this Act or by or under any enactment for the time being in force, the Provincial Government may, if it is satisfied after such inquiry as it may think fit, that the school board has been guilty of such default, by an order in writing direct the school board to perform the duty within a period fixed for the performance of that duty :

Provided that no such order shall be made unless the school board has been given an opportunity to show cause why such order should not be made.

(*2*) If such a duty is not performed within the period so fixed, the Provincial Government may appoint some person to perform it and may direct that the expenses of performing it with a reasonable remuneration to the person appointed to perform it shall be paid within such time as it may fix to such person by the school board or as the Provincial Government may direct.

(*3*) If the expenses and remuneration are not paid, the Provincial Government may make an order directing the officer in charge of the treasury or bank or society in which the primary education fund is kept or the whole or portion thereof is deposited or lent at interest, to pay such expense and remuneration from such moneys as may be standing to the credit of the school board in such treasury or bank or society or as may from time to time be received from or on behalf of the school board by way of deposit by such treasury or bank or society ; and such officer or bank or society shall be bound to obey such order. Every payment made in pursuance to such order shall be a sufficient discharge to such officer, bank or society from all liabilities to the school board in respect of any sum or sums so paid by him or it out of the moneys so received or standing to the credit of the school board in such treasury, bank or society.

Directions by Provincial Government.

54. Notwithstanding anything contained in this Act, the Provincial Government shall have power to give to a district school board all such directions as it may consider necessary in regard to any matter connected with primary education and the district school board shall comply with such directions.

Enquiry into affairs of school board.

55. (*1*) The Provincial Government may, from time to time, cause enquiry to be made by any of its officers in regard to any authorized municipality or school board on matters connected with primary education concerning them or any matters with respect to which the sanction, approval, consent or order of the Provincial Government is required by or under this Act.

(*2*) The officer holding such enquiry shall have the powers of a court under the Code of Civil Procedure, 1908, to take evidence and to compel the attendance of witnesses and the production of documents for the purposes of the enquiry. V of 1908.

(*3*) The Provincial Government may make orders as to the costs of any enquiries made under sub-section (*1*) and as to the party by whom and the funds out of which they shall be paid, and such order may, on the application of the Provincial Government or of any person named therein be executed as if it were a decree of a civil court.

Dissolution or supersession of school board in certain circumstances.

56. (*1*) If in the opinion of the Provincial Government a school board is not competent to perform or is not properly performing the duties imposed on it by or under this Act or the rules or regulations made thereunder or exceeds or abuses its powers, or is acting or has acted contrary to the provisions of this Act or the rules or regulations made thereunder, it may, by an order published in the *Official Gazette* with the reasons for making it either—

(*a*) dissolve the Board, or

(*b*) supersede it for a period to be specified in the order.

(*2*) When the school board is dissolved or superseded, the following consequences shall ensue :—

(*a*) all members of the board shall in the case of supersession as from the date of the order of supersession, and in the case of dissolution as from the date specified in the order of dissolution, be deemed to have vacated their offices as such members ;

(*b*) all powers and duties of the board shall, during the period of dissolution or supersession, be exercised and performed by such person or persons as the Provincial Government may from time to time appoint in this behalf ;

(*c*) the person or persons appointed under clause (*b*) may delegate their powers and duties to any individual or committee or sub-committee.

(*3*) On the issue of an order of dissolution under sub-section (*1*) election of members shall be held under the provisions of this Act or of the rules made thereunder on or before the date to be specified by the Provincial Government and the board shall be re-established by the election, appointment or nomination of members under the aforesaid provisions on such date as may be specified by the Provincial Government.

(*4*) If, after enquiry made, the Provincial Government so directs, the period of supersession with all the consequences aforesaid shall, from time to time, be continued by an order published as aforesaid until such date as may be fixed by the Provincial Government for the re-establishment of the board.

(*5*) After the board is superseded it shall be re-established by election, appointment or nomination of members under the provisions of this Act or the rules made thereunder applicable thereto—

(*a*) if no direction has been made under sub-section (*4*), on the expiration of the period specified in the order of supersession under clause (*b*) of sub-section (*1*), and

(*b*) if a direction has been made under sub-section (*4*) on such date as is fixed under that sub-section for the re-establishment of the school board.

Dissolution of district school board and its re-constitution on alteration of limits of district.

Bom. V of 1879.

57. (*1*) When during the term of office of the members of a district school board the limits of the district are on account of the formation of a new district under the Bombay Land Revenue Code, 1879, or for any other reason altered, the Provincial Government may, by order published in the *Official Gazette*, dissolve such board from a date specified in the order and direct a district school board—

(*i*) to be reconstituted for the district of which the district school board has been dissolved, or

(*ii*) to be established for a new district which has been constituted.

The members of the district school board which has been dissolved shall vacate their offices from the date specified in the order.

(*2*) The district school board reconstituted or established under the provisions of sub-section (*1*) shall consist of such number of members elected, appointed or nominated in such manner as the Provincial Government may by order in writing direct. The chairman and vice-chairman of the district school board so reconstituted or established shall be elected in the manner provided in this Act and the rules made thereunder.

(*3*) The members of a district school board reconstituted or established under the provisions of sub-section (*2*) shall hold office for such period, not exceeding one year as the Provincial Government shall by order specify.

(*4*) On the expiry of the period of office of the members of a district school board under the provisions of sub-section (*3*), the district school board shall be constituted in the manner provided in section 4.

CHAPTER X.

PROVINCIAL BOARD OF PRIMARY EDUCATION.

Constitution of Provincial Board of Primary Education.

58. (*1*) There shall be a Provincial Board of Primary Education, consisting of twelve members, of whom six shall be elected by the school boards in the manner prescribed. The remaining six, of whom not more than three shall be Government officers, shall be appointed by the Provincial Government.

(*2*) The members of the said board shall hold office for a period of three years:

Provided that the term of office of the out-going members shall be deemed to extend to and to expire with the date on which their successors are elected or appointed, as the case may be.

(*3*) Any member of the said board may resign his seat at any time by giving notice thereof in writing to the president; and such member shall be deemed to have vacated his seat as soon as the president has received his resignation.

(*4*) Any member of the said board who absents himself from three consecutive meetings of the board without its previous permission shall cease to be a member of the board.

(*5*) The Provincial Government may on its own motion or on the recommendation supported by a resolution passed by at least two-thirds of the whole number of members of the said board remove any member of the said board if such member has been guilty of misconduct in the discharge of his duties or any disgraceful conduct or has become incapable of performing his duties as a member by reason of any physical or mental infirmity:

Provided that no such member shall be so removed nor shall any resolution recommending the removal of any member be passed unless the member to whom it relates has been given a reasonable opportunity of showing cause why he should not be so removed or why such recommendation should not be made.

(*6*) The elected members of the said board shall be persons having any of the following qualifications:—

(*a*) a graduate of seven years' standing of any recognised University;

(*b*) a professor who has served as such for a period of five years in a college affiliated to a statutory University in the Province of Bombay;

(*c*) a headmaster who has served as such for ten years in an approved school or high school recognised by the Department of Education of the Provincial Government.

(*7*) The said board shall elect its president from amongst its own members and his term of office shall be co-extensive with that of the board. Of the members appointed by the Provincial Government, one member selected by the Provincial Government and belonging to the Department of Education shall act as Secretary to the board.

(*8*) Casual vacancies during the term of the said board shall be filled for the remaining period by election or appointment as the case may be.

Powers and duties of Provincial Board.

59. The powers and duties of the said board shall be as follows, namely:—

(*a*) to examine and recommend schemes for the organization, co-ordination and expansion of primary education and for the correlation of primary education with the system of education as a whole in the Province;

(*b*) to advise the Provincial Government generally on all matters connected with primary education;

(*c*) to exercise such other powers and to perform such other duties as may be prescribed.

CHAPTER XI.

MISCELLANEOUS.

60. The Provincial Government may delegate any of its powers or duties under this Act to any officer or authority subordinate to it. Delegation of its powers by Provincial Government.

61. (*1*) Subject to the provisions of this Act and the rules made thereunder, an authorized municipality may delegate any of its powers, duties and functions under this Act to the municipal school board. Delegation by authorized municipalities and school boards of their powers, duties and functions.

(*2*) (*a*) A school board may from time to time constitute committees and discontinue or alter the constitution of such committees.

(*b*) The school board may delegate any of its powers, duties and functions to any such committee or to any member or Administrative Officer or stipendiary or any other officer of the board ; and such committee, member or officer shall conform to any instructions that may from time to time be given by the board.

(*3*) The authorized municipality or the school board may at any time withdraw any of the powers, duties and functions so delegated.

62. (*1*) No suit, prosecution or other legal proceeding shall be commenced against any school board or authorized municipality or a servant thereof or any person acting under the orders of the said board or municipality for anything done, or purporting to have been done in pursuance of this Act, which entitles or requires a school board, authorized municipality, member, officer, servant as such or other person so acting to exercise any powers or perform duties without giving to such school board, authorized municipality, member, officer, servant or person one month's previous notice in writing of the intended action and of the cause thereof, or after six months from the date of the act complained of. Limitation of suits.

(*2*) In the case of any such suit for damages if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount as tendered, and shall pay all costs incurred by the defendant after such tender.

63. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters :—

(*a*) the manner of election of the chairman, vice-chairman and the members of a school boards ;

(*b*) the duties and functions of the chairman and the vice-chairman ;

(*c*) procedure for the conduct of school board's business ;

(*d*) procedure for sanctioning tenders ;

(*e*) the constitution and functions of village school committees ;

(*f*) provident funds, gratuities and pensions for the staff maintained by the district school board and for the primary school teachers maintained by an authorized municipality ;

(*g*) provision for the welfare of the children attending primary schools including provision for the care of their health and for their physical and moral training ;

(*h*) pre-vocational courses as a part of upper primary courses ;

(*i*) regulation of the delegation of powers, duties and functions under this Act ; and

(*j*) matters to be prescribed under this Act.

(*3*) Rules made under sub-sections (*1*) and (*2*) shall be made after previous publication.

Repeal and transitory provision relating to school boards.

64. The Bombay Primary Education Act, 1923, is hereby repealed : Bom. IV of 1923.

Provided that until a new school board is constituted under section 4, any existing school board under the Bombay Primary Education Act, 1923, shall exercise all the powers and perform all the duties and functions and shall be subject to all the rights and liabilities as if it is constituted under this Act. Bom. IV of 1923.

Act to prevail over provisions of certain other Acts.

65. The provisions of this Act shall have effect notwithstanding anything to the contrary contained in the provisions relating to primary education in the Bombay District Municipal Act, 1901, the Bombay Local Boards Act, 1923, and the Bombay Municipal Boroughs Act, 1925. Bom. III of 1901. Bom. VI of 1923. Bom. XVIII of 1925.

THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT, 1947.

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BOMBAY ACT No. LXII OF 1947.[1]

[THE BOMBAY PREVENTION OF FRAGMENTATION AND CONSOLIDATION OF HOLDINGS ACT, 1947.]

[*29th January 1948.*]

An Act to provide for the prevention of fragmentation of agricultural holdings and for their consolidation.

WHEREAS it is expedient to prevent the fragmentation of agricultural holdings and to provide for the consolidation of agricultural holdings for the purpose of the better cultivation thereof; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force in such areas and on such date as the Provincial Government may by notification in the *Official Gazette* direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "agricultural year" means the year commencing on the first day of April;

(*2*) "consolidation of holdings" means the amalgamation and where necessary the redistribution of holdings or portions of holdings in any village, mahal or taluka or any part thereof so as to reduce the number of plots in holdings;

(*3*) "Consolidation Officer" means an officer appointed as such under section 15 by the Provincial Government, and includes any person authorized by the Provincial Government to perform all or any of the functions of the Consolidation Officer under this Act;

(*4*) "fragment" means a plot of land of less extent than the appropriate standard area determined under this Act:

Provided that no plot of land shall be deemed to be a fragment by reasons of any diminution in its area by diluvion;

(*5*) "land" means agricultural land whether alienated or unalienated;

(*6*) "local area" means any area notified as such in the *Official Gazette* under section 3;

(*7*) "Mamlatdar" shall include a Mahalkari;

(*8*) "Owner" means in the case of unalienated land the occupant and when such land has been mortgaged, owner means the mortgagor; in the case of alienated land owner means the superior holder;

(*9*) "prescribed" means prescribed by rules made under this Act;

(*10*) "standard area" in respect of any class of land means the area which the Provincial Government may from time to time determine under section 5 as the minimum area necessary for profitable cultivation in any particular local area, and includes a standard area revised under the said section;

Bom V of 1879.

(*11*) words and expressions used in this Act, but not defined, have the meaning assigned to them in the Bombay Land Revenue Code, 1879.

[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1946, Part V, page 139; for Report of the Select Committee, *see ibid*, 1947, Part V, page 195; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. X and Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates 1947, Vol. XIII.

CHAPTER II.

DETERMINATION OF LOCAL AND STANDARD AREAS AND TREATMENT OF FRAGMENTS.

Determination of local area.

3. The Provincial Government may, after such inquiry as it deems fit, by notification in the *Official Gazete*, specify a village, mahal or taluka or any part thereof as a local area for the purposes of this Act.

Settlement of standard areas.

4. (*1*) The Provincial Government may, after such inquiry as it deems fit and after consultation with the District Advisory Committee appointed by it, provisionally settle for any class of land in any local area the minimum area that can be cultivated profitably as a separate plot.

(*2*) The Provincial Government shall by notification in the *Official Gazette* and in such other manner as may be prescribed publish the minimum areas provisionally settled by it under sub-section (*1*) and invite objections thereto.

Determination and revision of standard areas.

5. (*1*) The Provincial Government shall, after considering the objections, if any, received within three months of the date of publication of the notification under sub-section (*2*) of section 4 in the village concerned and making such further inquiry as it may deem fit, determine the standard area for each class of land in such local area.

(*2*) The Provincial Government may, at any time, if it deems it expedient so to do, revise a standard area determined under sub-section (*1*). Such revision shall be made in the manner laid down in section 4 and sub-section (1).

(*3*) The Provincial Government shall, by notification in the *Official Gazette* and in such other manner as may be prescribed, give public notice of any standard area determined under sub-section (*1*) or revised under sub-section (*2*).

Entry in the Record of Rights.

6. (*1*) On notification of a standard area under sub-section (*3*) of section 5 for a local area all fragments in the local area shall be entered as such in the Record of Rights, or where there is no Record of Rights in such village record as the Provincial Government may prescribe.

(*2*) Notice of every entry made under sub-section (*1*) shall be given in the manner prescribed for the giving of notice under the Bombay Land Revenue Code, 1879, of an entry in the register of mutations. Bom. V of 1879.

Transfer and lease of fragments.

7. (*1*) No person shall transfer any fragment in respect of which a notice has been given under sub-section (*2*) of section 6 unless thereby the fragment becomes merged in a contiguous survey number or recognised sub-division of a survey number.

(*2*) Notwithstanding anything contained in the Bombay Tenancy Act, 1939, no such fragment shall be leased to any person other than a person cultivating any land which is contiguous to the fragment. Bom. XXIX of 1939.

Fragmentation prohibited.

8. No land in any local area shall be transferred or partitioned so as to create a fragment.

Penalty for transfer or partition contrary to provisions of Act.

9. (*1*) The transfer or partition of any land contrary to the provisions of this Act shall be void.

(*2*) The owner of any land so transferred or partitioned shall be liable to pay such fine not exceeding Rs. 250 as the Collector may, subject to the general orders of the Provincial Government, direct.

10. (*1*) Any owner of a fragment may transfer it to the Crown for the purposes of the Province on payment by the Crown of such compensation to persons possessing interest therein as the Collector may determine and thereupon the fragment shall vest absolutely in the Crown for the purposes of the Province free from all encumbrances. Transfer of fragment to Crown.

Bom. V of 1879. (*2*) Any such fragment may be disposed of in accordance with the provisions of section 117-B of the Bombay Land Revenue Code, 1879.

V of 1908. **11.** When a decree is transferred to the Collector under section 54 of the Code of Civil Procedure, 1908, for the partition of an undivided estate assessed to the payment of revenue to the Crown in any local area for which standard areas have been fixed, or for the separate possession of a share of such an estate, no such partition or separation shall be made so as to create a fragment. Partition of estate assessed to payment of revenue to Crown or separation of share thereof.

I of 1894. **12.** In determining the compensation for the purposes of section 10 the Collector shall have regard to the provisions of sub-section (1) of section 23 of the Land Acquisition Act, 1894. Determination of compensation for purposes of section 10.

Bom. V of 1879. Bom. LXII of 1947. **13.** In sections 117A and 117B of the Bombay Land Revenue Code, 1879, the following shall be inserted at the commencement of the said sections, namely :—

"Subject to the provisions of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947," Amendment of sections 117A and 117B of Bom. V of 1879.

14. Notwithstanding anything contained in any law for the time being in force no land shall be acquired by the Provincial Government or any local authority or sold at any sale held under the orders of any Court so as to leave a fragment. Provincial Government or local authority not to acquire land so as to leave fragment.

CHAPTER III.

PROCEDURE FOR CONSOLIDATION.

15. With the object of consolidating holdings in any village, mahal or taluka or any part thereof for the purpose of better cultivation of lands therein, the Provincial Government may declare by a notification in the *Official Gazette* and by publication in the prescribed manner in the village or villages concerned its intention to make a scheme for the consolidation of holdings in such village or villages or part thereof as may be specified. On such publication in the village concerned the Provincial Government may appoint a Consolidation Officer who shall proceed to prepare in the prescribed manner a scheme for the consolidation of holdings in such village or villages or part thereof, as the case may be. Government may of its own accord or on application declare its intention to make scheme for consolidation of holdings.

16. (*1*) The scheme prepared by the Consolidation Officer shall provide for the payment of compensation to any owner who is allotted a holding of less market value than that of his original holding and for the recovery of compensation from any owner who is allotted a holding of greater market value than that of his original holding. Scheme to provide for compensation.

I of 1894. (*2*) The amount of compensation shall be determined, so far as practicable, in accordance with the provisions of sub-section (*1*) of section 23 of the Land Acquisition Act, 1894.

Amalgamation of public roads, etc., within scheme for consolidation of holdings.

17. (*1*) Whenever in preparing a scheme for the consolidation of holdings, it appears to the Consolidation Officer that it is necessary to amalgamate any road, street, lane or path with any holding in the scheme, he shall make a declaration to that effect stating in such declaration that it is proposed that the rights of the public as well as of all individuals in or over the said road, street, lane or path shall be extinguished or, as the case may be, transferred to a new road, street, lane or path laid out in the scheme of consolidation.

(*2*) The declaration in sub-section (*1*) shall be published in the village concerned in the prescribed manner along with the draft scheme referred to in section 19.

(*3*) Any member of the public or any person having any interest or right, in addition to the right of public highway, in or over the said road, street, lane or path or having any other interest or right which is likely to be adversely affected by the proposal may, within thirty days after the publication of the declaration under sub-section (*1*), state to the Consolidation Officer in writing his objection to the proposal, the nature of such interest or right and the manner in which it is likely to be adversely affected and the amount and the particulars of his claim to compensation for such interest or right:

Provided that no claim for compensation on account of the extinction or diminution of the right of public highway over such road, street, lane or path shall be entertained.

(*4*) The Consolidation Officer shall, after considering the objections, if any, made to the proposal, submit it with such amendments, if any, as he may consider necessary, to the Settlement Commissioner, together with the objections received, his recommendations thereon and a statement of the amounts of compensation, if any, which in his opinion are payable, and of the persons by whom and the persons to whom such compensation is payable. The decision of the Settlement Commissioner on the proposal and regarding the amount of compensation and the persons by whom such compensation, if any, is payable, shall, subject to any modification made by the Provincial Government, be final.

Revocation of assignments of lands.

18. Notwithstanding anything contained in any law for the time being in force, it shall be lawful for the Consolidation Officer to direct that any land specifically assigned for any public purpose shall cease to be so assigned and to assign any other land in its place.

Publication of draft scheme.

19. (*1*) When the draft scheme of consolidation is ready for publication, the Consolidation Officer shall publish it in the prescribed manner in the village or villages concerned. Any person likely to be affected by such scheme, shall, within thirty days of the date of such publication, communicate in writing to the Consolidation Officer any objections relating to the scheme. The Consolidation Officer shall, after considering the objections, if any received, submit the scheme with such amendments as he considers to be necessary, together with his remarks on the objections, to the Settlement Commissioner.

(*2*) The Consolidation Officer shall also publish the scheme as amended by him.

Confirmation of scheme.

20. (*1*) If within thirty days of its publication no objections are received to the draft scheme published under sub-section (*1*) or the amended draft scheme published under sub-section (*2*) of section 19, as the case may be, the Settlement Commissioner shall confirm the scheme.

(*2*) If any objections are received to the amended draft scheme published under sub-section (*2*) of section 19, the Settlement Commissioner shall after taking the objections into consideration submit it with such modifications as he considers necessary to the Provincial Government.

(*3*) The Provincial Government may either confirm the scheme with or without modifications or refuse to confirm it:

Provided that the Provincial Government shall, if the scheme has been modified by the Settlement Commissioner under sub-section (*2*) publish it as so modified, and take into consideration the objections, if any, received within thirty days of such publication before acting under this sub-section.

Right to possession of new holdings.

21. (*1*) Upon the confirmation of the scheme under sub-section (*1*) or (*3*) of section 20, the scheme as confirmed shall be published in the *Official Gazette* and also in the prescribed manner in the village or villages concerned, and if all the owners affected by such scheme agree to enter into possession of the holdings allotted to them thereunder, the Consolidation Officer may allow them to enter into such possession forthwith or from such date as may be specified by him.

(*2*) If all the owners affected by the scheme do not agree to enter into possession under sub-section (*1*) they shall be entitled to possession of the holdings allotted to them under the scheme from the commencement of the agricultural year next following the date of its publication in the *Official Gazette* under sub-section (*1*) and the Consolidation Officer shall, if necessary, put them in possession of the holdings to which they are so entitled, and for doing so may in the prescribed manner evict any person from any land.

(*3*) Notwithstanding anything contained in sub-section (*2*) no owner shall be entitled to possession of any holding allotted to him under the scheme unless he deposits in the prescribed manner within fifteen days of the commencement of the said agricultural year such compensation as is recoverable from him under the scheme.

(*4*) Where an owner fails to comply with the provisions of sub-section (*3*) his right in such holding may be allotted in the prescribed manner by the Consolidation Officer to any other person who pays the value of the holding, and in such case the value realised after deducting the expense (hereinafter called the net value) shall be paid to the owner and any other person having an interest in the holding.

Coming into force of scheme.

22. As soon as the persons entitled to possession of holdings under this Act have entered into possession of the holdings respectively allotted to them, the scheme shall be deemed to have come into force.

Certain laws no ban on transfer of holdings.

23. Notwithstanding anything contained in any law for the time being in force, the rights of owners, or other persons having interest, shall for the purpose of giving effect to any scheme of consolidation affecting them be transferable by exchange or otherwise.

Certificate of transfer.

24. (*1*) The Consolidation Officer shall grant to every owner to whom a holding has been allotted in pursuance of a scheme of consolidation and to every person to whom a right is allotted under sub-section (*4*) of section 21, a certificate in the prescribed form duly registered under the Indian Registration Act, 1908, to the effect that the holding has been transferred to him in pursuance of the scheme.

XVI of 1908.

(*2*) Notwithstanding anything contained in any law for the time being in force no stamp or registration fee shall be payable in respect of such certificate.

Loans to assist consolidation.

25. For carrying out any of the purposes of this Act, a loan may be granted to an owner and recovered from him as a loan under the Land Improvement Loans Act, 1883, or the Agriculturists' Loans Act, 1884.

XIX of 1883.

XII of 1884.

CHAPTER IV.

EFFECT OF CONSOLIDATION PROCEEDINGS AND OF CONSOLIDATION OF HOLDINGS.

Exercise by Consolidation Officer of powers under certain Acts.

26. (*1*) During the continuance of the consolidation proceedings the Consolidation Officer shall exercise and discharge the functions of a revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939; and no revenue officer other than the Consolidation Officer shall take any proceedings under any of the said Acts in respect of any holding or land for the consolidation of which a notification has been issued under section 15. Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(*2*) Where in respect of any holding the Consolidation Officer proceeds to prepare a scheme under section 15—

(*a*) all applications and proceedings including execution proceedings pending before any revenue officer under Chapter IX of the Bombay Land Revenue Code, 1879, the Mamlatdars' Courts Act, 1906, and the Bombay Tenancy Act, 1939, in respect of any holding or land for the consolidation of which a notification has been issued under section 15 shall be transferred to the Consolidation Officer; and Bom. V of 1879. Bom. II of 1906. Bom. XXIX of 1939.

(*b*) the Consolidation Officer shall, by proclamation, call upon all persons who claim to be entitled to possession under any of the said Acts of any holding for the consolidation of which a notification has been issued under section 15 to make within the prescribed period an application to be put in possession of such holdings; and any person who fails to do so within the prescribed period shall thereafter be debarred from making it:

Provided that nothing in this clause shall debar any person from making, after the coming into force of a scheme of consolidation under section 22, any application in respect of any holding included in the scheme, if such application could lie under the provisions of any law for the time being in force.

(*3*) The Consolidation Officer shall submit any order passed by him under any of the said Acts to the Collector for confirmation if an application in that behalf is made to him by any party to a proceeding under this section within fifteen days from the date of the order.

Stay of proceedings under sections 153 and 155 of Bom. V of 1879; ban on transfer of land during continuance of consolidation proceedings.

27. When a Consolidation Officer proceeds to prepare a scheme under section 15, during the continuance of the consolidation proceedings—

(*a*) no proceedings under section 153 or 155 of the Bombay Land Revenue Code, 1879, in respect of any land in respect of which a notification has been issued under section 15 shall be commenced; and all such proceedings if commenced shall be stayed; Bom. V of 1879.

(*b*) no person shall transfer any land in respect of which a notification under section 15 has been issued.

Rights in holdings.

28. Every owner to whom a holding is allotted in pursuance of a scheme of consolidation shall have the same rights in such holding as he had in his original holding:

Provided that nothing in this section shall apply to any person to whom a holding has been allotted under the provisions of sub-section (*4*) of section 21.

Transfer of encumbrances.

29. (*1*) If the holding of an owner included in a scheme of consolidation which has come into force under section 22 is burdened with a lease, mortgage, debt or other encumbrance, such lease, mortgage, debt or other encumbrance shall be transferred therefrom and attach itself to the holding allotted to him under the scheme or to such part of it as the Consolidation Officer may, subject to any rules made under section 37, appoint; and the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall exercise his rights accordingly.

(*2*) If the holding to which a lease, mortgage, debt or other encumbrance is transferred under sub-section (*1*) is of less market value than the original holding from which it is transferred, the lessee, mortgagee, creditor or other encumbrancer, as the case may be, shall subject to the provisions of section 30 be entitled to the payment of such compensation by the owner of the holding, as the case may require, as the Consolidation Officer may determine.

(*3*) Notwithstanding anything contained in section 21, the Consolidation Officer shall, in the prescribed manner, put any lessee, mortgagee or other encumbrancer entitled to possession into possession of the holding to which his lease, mortgage or other encumbrance has been transferred under sub-section (*1*).

Apportionment of compensation or net value in case of dispute.

30. Where there is a dispute in respect of the apportionment of—

(*a*) the amount of compensation determined under sub-section (*2*) of section 16 or sub-section (*4*) of section 17;

(*b*) the net value realized under sub-section (*4*) of section 21;

(*c*) the total amount of compensation determined under sub-section (*2*) of section 29,

the Consolidation Officer shall refer the dispute to the decision of the District Court and deposit the amount of the compensation or net value, as the case may be, in the Court and thereupon the provisions of sections 33, 53 and 54 of the Land Acquisition Act, 1894, shall, so far as may, apply.

I of 1894.

Alienation and sub-division of consolidated holdings.

31. Notwithstanding anything contained in any law for the time being in force, no person to whom a holding has been allotted under this Act shall—

(*a*) transfer any holding or part thereof except in accordance with such conditions as may be prescribed;

(*b*) except with the permission in writing of the Provincial Government, sub-divide such holding.

Power to vary scheme on ground of error, irregularity, informality.

32. (*1*) If after a scheme has come into force it appears to the Provincial Government that the scheme is defective on account of an error, irregularity or informality the Provincial Government shall publish a draft of such variation in the prescribed manner. The draft variation shall state every amendment proposed to be made in the scheme.

(*2*) Within one month of the date of publication of the draft variation any person affected thereby may communicate in writing any objection to such variation to the Provincial Government through the Settlement Commissioner.

(*3*) After receiving the objections under sub-section (*2*) the Provincial Government may, after making such enquiry as it may think fit, by notification in the *Official Gazette*, make the variation with or without modifications or may not make any variation.

(*4*) From the date of the notification making the variation, the variation shall take effect as if it were incorporated in the scheme.

Power to vary or revoke scheme.

33. A scheme for the consolidation of holdings confirmed under this Act may at any time be varied or revoked by a subsequent scheme prepared, published and confirmed in accordance with this Act.

CHAPTER V.

GENERAL.

Vesting of powers of Settlement Commissioner.

34. The Provincial Government may, by notification in the *Official Gazette*, invest the Collector with all or any of the powers of the Settlement Commissioner under this Act.

Power of Provincial Government to call for proceedings.

35. The Provincial Government may at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by any officer under this Act call for and examine the record of any case pending before or disposed of by such officer and may pass such order in reference thereto as it thinks fit.

Appeal and revision.

36. Except as provided in this Act, no appeal or revision application shall lie from any order passed under Chapter II, III or IV of this Act.

Rules.

37. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules, providing for—

(*a*) the manner of publication under sub-section (*2*) of section 4;

(*b*) the manner of giving public notice under sub-section (*3*) of section 5;

(*c*) village records in which fragments shall be entered under sub-section (*1*) of section 6;

(*d*) the manner in which the intention to make a scheme shall be published and the manner of preparation of the scheme under section 15;

(*e*) the manner of publication under sub-section (*2*) of section 17 of a declaration made under sub-section (*1*) of the said section;

(*f*) the manner in which a draft scheme of consolidation shall be published under sub-section (*1*) of section 19 in the village or villages concerned;

(*g*) the manner of publication of a scheme under sub-section (*1*) of section 21, on its being confirmed;

(*h*) the manner in which a person may be evicted under sub-section (*2*) of section 21;

(*i*) the manner in which compensation recoverable from an owner shall be deposited by him under sub-section (*3*) of section 21;

(*j*) the manner in which right of holding may be allotted under sub-section (*4*) of section 21;

(*k*) the form in which a certificate shall be granted under section 24;

(*l*) the period within which an application shall be made under clause (*b*) of sub-section (*2*) of section 26;

(*m*) the guidance of the Consolidation Officer and other officers and persons in respect of the transfer of a lease, mortgage, debt or other encumbrance under sub-section (*1*) of section 29 ;

(*n*) the conditions in accordance with which holdings may be transferred under clause (*a*) of section 31 ;

(*o*) the manner of publication of a draft variation under sub-section (*1*) of section 32 ;

(*p*) the manner in which the area and assessment (including water-rate if any) of each reconstituted holding or part of such holding shall be determined ;

(*q*) the manner in which corrections shall be made in the Record of Rights in accordance with a scheme of consolidation ;

(*r*) generally, for the guidance of the Consolidation Officer and other officers and persons in all proceedings under this Act ;

(*s*) any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

THE BOMBAY FORWARD CONTRACTS CONTROL ACT, 1947.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and operation.
2. Definitions.
3. Recognition.
4. Power of Provincial Government to supersede the governing body, and suspend business.
5. Power of Provincial Government to make rules and add to, etc., articles association.
6. Power of recognised association to make, add to, vary or rescind bye-laws.
7. Power of Provincial Government to make bye-laws.
8. Illegal contracts and penalty.
9. Options in goods illegal.
10. Penalty for owning or keeping place used for entering into forward contracts in contravention of Act, etc.
11. Jurisdiction under Act.
12. Offences by corporations and firms.
13. Bar of suits and proceedings against officers, etc.
14. Repeal of enactments.
15. Savings.

BOMBAY ACT No. LXIV OF 1947.[1]

[THE BOMBAY FORWARD CONTRACTS CONTROL ACT, 1947.]

[*7th February 1948.*]

An Act to provide for the regulation and control of forward contracts, for prohibition of options and for certain other purposes in the Province of Bombay.

WHEREAS it is expedient to regulate and control forward contracts, to prohibit options and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bombay Forward Contracts Control Act, 1947. Short title and operation.

(*2*) This section shall come into force at once.

(*3*) The Provincial Government may by notification in the *Official Gazette* direct that all the remaining sections other than sections 4, 5 and 7 shall come into force in the whole of the Province of Bombay or such part thereof and on such date and in their application to such goods as may be specified in the notification.

(*4*) The Provincial Government may also by notification in the *Official Gazette* direct that section 4, 5 or 7 shall come into force in the whole of the Province of Bombay or such part thereof and on such date and in its application to such goods as may be specified in the notification.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Association" means any association, organization or body of individuals, whether incorporated or not, established for the purpose of regulating and controlling business of the sale or purchase of, or other transactions relating to any goods;

(*2*) "Contract" means a contract entered into, made or to be performed in whole or in part in any notified area relating to the sale or purchase of any goods to which this Act applies:

Provided that the Provincial Government may by notification in the *Official Gazette* direct any contract or class of contracts to be excluded from the provisions of this Act, subject to such conditions as the Provincial Government may deem fit to impose;

(*3*) "Forward contract" means a contract for the delivery of goods at a future date and which is not a ready delivery contract;

(*4*) "Goods" means any kind of moveable property and includes securities but does not include money or actionable claims;

(*5*) "Government security" means a Government security as defined in the Indian Securities Act, 1920; X of 1920.

(*6*) "Notified area" means any area specified in the notification under sub-section (*3*) of section 1;

(*7*) "Option in goods" means a contract for the purchase or sale of a right to buy, or a right to sell, or a right to buy or sell goods in future and includes a *gully*, a *teji*, a *mandi* or a *teji-mandi* in goods;

(*8*) "Person" includes a firm;

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[1] For Statement of Objects and Reasons see *Bombay Government Gazette*, 1947, Part V, page 274; for Report of the Select Committee, *see ibid.*, page 503; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1947, Vol. XI; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1947, Vol. XIII.

(*9*) "Ready delivery contract" means a contract which provides for delivery and payment of price either immediately or within such number of days not exceeding seven after the date of the contract and under such conditions as the Provincial Government may, from time to time, by notification in the *Official Gazette*, specify in this behalf in respect of any particular goods;

(*10*) "Recognised association" means an association which is for the time being recognised by the Provincial Government as provided in section 3;

(*11*) "Securities" includes shares, scrips, stocks, bonds, debentures, debenture stocks, or other marketable security of a like nature in or of any incorporate company or other body corporate and Government securities.

Recognition.

3. (*1*) Any association desirous of being recognised for the purposes of this Act shall make an application in writing to the Provincial Government for such recognition and shall, along with the application, submit rules relating in general to its constitution and management and in particular to—

(*a*) the management of the association by a governing body and the constitution of such governing body;

(*b*) the powers and duties of the office bearers and the governing body and the manner in which its business shall be transacted;

(*c*) the admission of various classes of members by the association and the exclusion, suspension, expulsion and readmission of such members;

(*d*) the formation and registration of partnerships and the appointment of authorised representatives and clerks;

(*e*) such other matters as the Provincial Government may by order direct.

(*2*) The association shall also furnish such other information in regard to such association as the Provincial Government may require.

(*3*) The Provincial Government may direct that there shall be no limitation of the number of the members of the association or such limitation of the number as the Provincial Government may impose, and may require the association to incorporate in the rules such direction and the conditions, if any, accompanying it.

(*4*) The Provincial Government may require such association to provide in its rules that the Provincial Government may appoint any person, whether a member of the association or not, to be the President or a member of the governing body of such association.

(*5*) If the Provincial Government is satisfied that the rules of the association are suitable in the interest of the trade and are in public interest, the Provincial Government may recognise the association. No alterations or additions shall be made in the rules of a recognised association without the prior approval of the Provincial Government.

(*6*) If the Provincial Government considers that the recognition given to any association should, in the interest of the trade or in public interest, be withdrawn, the Provincial Government may, after giving to the association an opportunity to explain why recognition should not be withdrawn, withdraw the recognition given to the said association, and such association shall thereupon cease to be a recognised association:

Provided that such withdrawal of the recognition of any association shall not in any manner affect the validity of any contract entered into or made prior to the date of the withdrawal of the recognition and the Provincial Government may make such provision as it deems fit for the due fulfilment of such contracts which may be outstanding at such date.

4. (*1*) (*i*) Notwithstanding anything contained in this Act, or any other law for the time being in force, the Provincial Government may, if it deems fit, by an order published in the *Official Gazette*, declare the governing body of any recognised association to be superseded and may appoint any person or persons to exercise and perform all the powers and duties of the governing body ; and when more persons than one are appointed may appoint one of such persons to be the President : Power of Provincial Government to supersede the governing body, and suspend business.

Provided that a reasonable opportunity shall be given to the governing body to explain why it should not be superseded unless the Provincial Government considers that an emergency has arisen when in the interest of the trade or in public interest immediate supersession is necessary.

(*ii*) The members of the governing body which has been superseded shall, as from the date of the order of supersession, cease to be such members.

(*iii*) The person or persons appointed under clause (*i*) shall hold office for such period as the Provincial Government may, by notification in the *Official Gazette*, appoint and the Provincial Government may from time to time by like notification extend such period.

(*iv*) The person or persons appointed under clause (*i*) may exercise and perform all the powers and duties of the governing body which has been superseded.

(*v*) When a person or persons have been appointed under clause (*i*), all such property of the recognised association as such person or persons may by order in writing declare to be necessary for carrying out the purposes of this Act, shall vest in such person or persons, as the case may be. The property so vested, or which such person or persons may have acquired shall, on the determination of the period of office of such person or persons, re-vest or vest, as the case may be, in the recognised association.

(*vi*) On the determination of the period referred to in clause (*iii*) the recognised association shall forthwith re-constitute a governing body in accordance with its rules : provided that until the governing body is so re-constituted the person or persons appointed under clause (*i*) shall continue to exercise and perform their powers and duties.

(*2*) If in the interest of the trade or in public interest, the Provincial Government considers it necessary to do so, the Provincial Government may by an order published in the *Official Gazette* direct a recognised association to suspend its business for such period and subject to such conditions as may be specified in the order and the Provincial Government may from time to time by like order extend such period.

5. (*1*) If the Provincial Government is of opinion that it is expedient to do so, the Provincial Government may at any time add to, vary or rescind any rules made by a recognised association or may make any rules for all or any of the matters, specified in sub-sections (*1*) to (*4*) of section 3, or require such association to add to, vary or rescind its articles of association. Power of Provincial Government to make rules and add to, etc., articles of association.

(*2*) Rules, or any addition to, or variation or rescission of, rules made under sub-section (*1*) shall be subject to the condition of previous publication :

Provided that the Provincial Government may in the interest of the trade or in public interest dispense with the condition of previous publication.

(*3*) Rules or any addition to or variation or rescission of, rules made under this section shall be published in the *Official Gazette* and shall be deemed to have been made by the recognised association.

6. (*1*) Any recognised association may, subject to the sanction of the Provincial Government, make and, from time to time, add to, vary or rescind bye-laws for the regulation and control of forward contracts in goods for which such association has been recognised. Power of recognised association to make, add to, vary or rescind bye-laws.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such bye-laws may provide for—

(*a*) the opening and closing of markets and the times during which such markets shall remain open or closed and regulating the hours of trade ;

(*b*) a clearing house for the periodical settlement of contracts and the differences thereunder, for the delivery of and payment for goods and for the passing on of delivery orders and the regulation and maintenance of such clearing house ;

(*c*) the number and classes of contracts in respect of which settlements shall be made or differences paid through the clearing house ;

(*d*) fixing, altering or postponing settling days ;

(*e*) determining and declaring the market rates for goods ;

(*f*) the terms, conditions and incidents of contracts and the forms of such contracts as are in writing ;

(*g*) regulating the entering into, making, performance, rescission and termination of contracts, including contracts between members, or between a commission agent and his constituent or between a broker and his constituent or between a *jatthawala* or *muccadum* and his constituent or between a member of the recognised association, and a person who is not a member, and the consequences of insolvency on the part of a seller or buyer or intermediary, the consequences of a breach or omission by a seller or buyer and the responsibility of commission agents, *muccadums* and brokers not parties to such contracts ;

(*h*) the admission and prohibition of specified classes or types of goods or of dealings in goods by a member of the recognised association ;

(*i*) the method and procedure for settlement of claims and disputes including settlement by arbitration ;

(*j*) the levy and recovery of fees, fines and penalties ;

(*k*) regulating the course of business between parties to contracts in any capacity ;

(*l*) fixing of a scale of brokerage and other charges ;

(*m*) the making, comparing, settling and closing of bargains ;

(*n*) the regulation of fluctuations in rates and prices ;

(*o*) emergencies and the exercise of powers in such emergencies ;

(*p*) the regulation of dealings by members for their own account.

(*3*) The bye-laws may provide that the contravention of any of the bye-laws shall—

(*i*) make a contract which is entered into, made or is to be performed otherwise than in accordance with the bye-law void or illegal ;

(*ii*) render the member liable to expulsion, suspension, fine or other non-monetary penalty.

(*4*) Bye-laws or any addition to or variation or rescission of such bye-laws made under this section shall be subject to the condition of previous publication unless such condition is dispensed with by the Provincial Government in the interest of the trade or in public interest and when sanctioned by the Provincial Government shall be published in the *Official Gazette*.

Power of Provincial Government to make bye-laws.

7. (*1*) If the Provincial Government is of opinion that it is expedient to do so, the Provincial Government may at any time add to, vary or rescind any bye-laws made by a recognised association under section 6 or may make any bye-laws for all or any of the matters specified in the said section 6.

(*2*) Bye-laws, or any addition to, or variation or rescission of bye-laws made under sub-section (*1*) may provide for the regulation and control of contracts entered into or made previously to and subsisting at the date of making of the bye-laws, addition, variation or rescission, but not so as to affect contracts entered into or made before a week previous to such date, and all rights and obligations in respect of contracts so regulated and controlled shall thereafter be determined accordingly.

(*3*) Bye-laws or any addition to, variation or rescission of bye-laws made under sub-section (*1*) shall be subject to the condition of previous publication :

Provided that the Provincial Government may, in the interest of the trade or in public interest, dispense with the condition of previous publication.

(*4*) Bye-laws or any addition to, or variation or rescission of bye-laws made under this section shall be published in the *Official Gazette* and shall be deemed to have been made by the recognised association.

Illegal contracts and penalty.

8. (*1*) Every forward contract for the sale or purchase of, or relating to, any goods specified in the notification under sub-section (*3*) of section 1 which is entered into, made or to be performed in any notified area shall be illegal if it is not entered into, made or to be performed—

(*a*) in accordance with such bye-laws, made under section 6 or 7 relating to the entering into, making or performance of such contracts, as may be specified in the bye-laws, or

(*b*) (*i*) between members of a recognised association,

(*ii*) through a member of a recognised association, or

(*iii*) with a member of a recognised association, provided that such member has previously secured the written authority or consent, which shall be in writing if the bye-laws so provide, of the persons entering into or making the contract,

and no claim of any description in respect of such contract shall be entertained in any civil court.

(*2*) Any person entering into or making such illegal contract shall, on conviction, be punishable with imprisonment for a term which may extend to six months or with fine or with both.

Options in goods illegal.

9. (*1*) Notwithstanding anything contained in this Act or in any other law for the time being in force on a notification being issued by the Provincial Government in the *Official Gazette*, options or such kinds of options in such goods and in the whole of the Province of Bombay or such part thereof as may be specified in the notification shall be illegal.

(*2*) Any person entering into any option made illegal under sub-section (*1*) shall, on conviction, be punishable with imprisonment which may extend to six months or with fine or with both.

Penalty for owning or keeping place used for entering into forward contracts in contravention of Act, etc.

10. Any person who in any notified area—

(*1*) owns or keeps a place, other than that of a recognised association, which is used for the purpose of entering into or making or performing in whole or in part forward contracts in goods specified in the notification under sub-section (*3*) of section 1 and knowingly permits such place to be used for such purposes ; or

(*2*) without the permission of the Provincial Government organises, or assists in organising or becomes a member of any association, other than a recognised association, established for the purpose of assisting in entering into or making or performing in whole or in part forward contracts such goods ; or

(*3*) manages, controls or assists in keeping any place, other than that of a recognised association, which is used for the purpose of entering into or making or performing in whole or in part forward contracts in such goods or at which such contracts are recorded or adjusted or rights or liabilities arising out of such contracts or options are adjusted, regulated or enforced in any manner whatsoever ; or

(*4*) not being a member of a recognised association wilfully represents to or induces any person to believe that he is a member of a recognised association or that a forward contract can be entered into or made or performed in whole or in part under this Act through him, or

(*5*) not being a member of a recognised association or his agent authorised under the rules or bye-laws of such association canvasses, advertises or touts in any manner either for himself or for any other person, for any business connected with forward contracts in such goods ; or

(6) joins, gathers or assists in gathering any person or persons for making bids or offers or for entering into or making any forward contracts in such goods at a place other than the place of business specified in the bye-laws of any recognised association,

shall, on conviction, be punishable with imprisonment which may extend to six months or with fine or with both.

Jurisdiction under Act.

11. No court inferior to that of a Presidency Magistrate or a Magistrate of the First Class shall take cognizance of or try any offence punishable under this Act.

Offences by corporations and firms.

12. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not) or a firm, every director, manager, secretary, agent or other officer or person concerned with the management thereof and every partner of the firm shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Bar of suits and proceedings against officers, etc.

13. No suit, prosecution, or other legal proceedings whatsoever shall be entertained in any Court against the governing body or any office-bearer or servant of a recognised association or against the person or persons appointed under clause (*i*) of sub-section (*1*) of section 4 for anything in good faith done or intended to be done in pursuance or execution of this Act or rules or bye-laws made thereunder.

Repeal of enactments.

14. (*1*) On the date on which an association is recognised under section 3 in any area in respect of securities, the Bombay Securities Contracts Control Act, 1925, and when an association is recognised under section 3 in the City of Bombay and the Island of Salsette in respect of cotton, the Bombay Cotton Contracts Act, 1932, shall cease to have force in such area. Bom. VIII of 1925. Bom. IV of 1932.

(*2*) On the date on which an association is recognised under section 3 in any area in respect of cotton, the Bombay Options in Cotton Prohibition Act, 1939, shall cease to have force in such area. Bom. XXV of 1939.

Savings.

15. (*1*) Nothing in this Act or any repeal effected thereby shall affect or be deemed to affect—

(*a*) the terms and incidents of any forward contracts in cotton or securities entered into or made before the date on which the provisions of this Act come into force and to which the Acts hereby repealed applied ;

Bom. Ordinance II of 1939.

(*b*) the terms and incidents of any options in cotton entered into or made before the date on which the Bombay Options in Cotton Prohibition Ordinance, 1939, came into force;

(*c*) the validity, invalidity, effect or consequences of anything already done or suffered, in case of such contracts before the coming into force of the provisions of this Act, and in the case of such options before the date of the coming into force of the said Ordinance;

(*d*) any right, title, obligation or liability already acquired, accrued or incurred in regard to such contracts before the date of the coming into force of the provisions of this Act and in regard to such options before the date of the coming into force of the said Ordinance;

(*e*) any remedy or proceeding in respect of such right, title, obligation or liability;

(*f*) anything done in the course of any proceeding pending in any Court, in case of such contracts on the date of the coming into force of the provisions of this Act and in the case of such options on the date of the coming into force of the said Ordinance, and any such remedy or proceeding may be enforced, instituted or continued, as the case may be, as if this Act had not been passed.

(*2*) The provisions of sub-section (*1*) shall apply to forward contracts for the purchase or sale of any other goods to which the provisions of this Act may, from time to time, be applied under sub-section (*3*) of section 1 entered into or made before the date on which a notification in respect of such goods may be published under the said sub-section.

THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Amendment of sections 3, 11 and 23 of Act I of 1894.

BOMBAY ACT No. IV OF 1948.[1]

[THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1948.]

[*18th March 1948.*]

An Act to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay.

I of 1894. WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Land Acquisition (Bombay Amendment) Act, 1948.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force at once.

(*4*) It shall remain in force for a period of five years only.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*i*) "housing scheme" means any housing scheme which the Government may from time to time undertake for the purpose of increasing accommodation for housing persons and shall include any such scheme undertaken from time to time with the previous sanction of the Provincial Government by a local authority or company;

(*ii*) "relevant date" means the first day of January 1948.

Amendment of sections 3, 11 and 23 of Act I of 1894.

I of 1894. **3.** (*1*) Where during the continuance of this Act any land is acquired under the Land Acquisition Act, 1894 (hereinafter called "the said Act"), for the purpose of a housing scheme the said Act shall have effect in relation to such acquisition as if—

Bom. IV of 1948. (*a*) in clause (*f*) of section 3 after the words "such provision" the words and brackets "and a housing scheme as defined in the Land Acquisition (Bombay Amendment) Act, 1948" had been inserted;

(*b*) in section 11 after the words, figures and brackets "section 4, sub-section (*1*)" the words "and at the relevant date" had been inserted; and

(*c*) in section 23—

(*i*) in the *first* clause of sub-section (*1*), after the words, brackets and figures "section 4, sub-section (*1*)" the words "or at the relevant date, whichever is less" had been inserted; and

(*ii*) sub-section (*2*) had been omitted.

(*2*) Nothing in this section shall apply to any building.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 2.

BOMBAY ACT No. XV OF 1948.[1]

[THE IDENTIFICATION OF PRISONERS (BOMBAY AMENDMENT) ACT, 1948.]

[*24th March 1948.*]

An Act to amend the Identification of Prisoners Act, 1920, in its application to the Province of Bombay.

XXXIII of 1920. WHEREAS it is expedient to amend the Identification of Prisoners Act, 1920, in its application to the Province of Bombay; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Identification of Prisoners (Bombay Amendment) Act, 1948.

Amendment of section 4 of Act XXXIII of 1920.

XXXIII of 1920. 2. For section 4 of the Identification of Prisoners Act, 1920, in its application to the Province of Bombay, the following shall be substituted, namely :—

Taking of measurements or photograph of unconvicted persons.

"4. Any person—

(*a*) who has been arrested—

V of 1898. Bom. XXIII of 1945.

(*i*) under section 55 of the Code of Criminal Procedure, 1898, or under section 4 of the Bombay Beggars Act, 1945,

Bom. IV of 1890. Bom. IV of 1902. Bom. XXIII of 1945.

(*ii*) in connection with an offence punishable under section 61D of the Bombay District Police Act, 1890, or under section 112 of the City of Bombay Police Act, 1902, or under section 6 or 9 of the Bombay Beggars Act, 1945, or in connection with an offence punishable with rigorous imprisonment for a term of one year or upwards, or

Bom. IV of 1890. Bom. IV of 1902. Bom. XXIII of 1945. Bom. VI of 1947.

(*b*) in respect of whom a direction or order under section 46 or 46B of the Bombay District Police Act, 1890, or under section 27 of the City of Bombay Police Act, 1902, or under sub-section (*1*) or (*2*) of section 23 of the Bombay Beggars Act, 1945, or under section 2 of the Bombay Public Security Measures Act, 1947, has been made,

shall, if so required by a police officer, allow his measurements or photograph to be taken in the prescribed manner."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 85.

THE POONA UNIVERSITY ACT, 1948.

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SCHEDULE II.

BOMBAY ACT No. XX OF 1948. [1]

[THE POONA UNIVERSITY ACT, 1948.]

[*24th March 1948.*]

Amended by Bom. 49 of 1948.

An Act to establish and incorporate a teaching and affiliating University at Poona.

WHEREAS it is expedient to establish and incorporate a teaching and affiliating University at Poona as a measure in the decentralization and re-organisation of University education in the Province of Bombay ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (*1*) This Act may be called the Poona University Act, 1948.

(*2*) This section shall come into force at once.

(*3*) The Provincial Government may, by notification in the *Official Gazette* direct that all or any of the remaining provisions of this Act shall come into force on such date or dates as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Affiliated" means affiliated under sections 5 and 33 ;

(*2*) "College" means a degree college or an intermediate college ;

(*3*) "Constituent" means made constituent under section 39 ;

(*4*) "Degree college" means an affiliated college which is authorized to submit its students to an examination qualifying for any degree of the University ;

(*5*) "High School" means a high school which has been recognized as a full-fledged high school by the Director of Public Instruction, Bombay Province, or by an officer authorized by him in this behalf, or a high school situate outside the Province of Bombay which has been registered by the University ;

(*6*) "Hostel" means a unit of residence for students maintained or recognized by the University under this Act ;

(*7*) "Intermediate college" means an affiliated college other than a degree college ;

(*8*) "Poona area" means the areas specified in Schedule I and such other contiguous areas as may, from time to time, be notified by the Provincial Government in the *Official Gazette* ;

(*9*) "Principal" means the head of a college ;

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[1] For Statement of Objects and Reason, *see Bombay Government Gazette* 1947, Part V, page 472.

(*10*) "Recognized institution" means an institution for research or specialized studies other than an affiliated college and recognized as such by the University ;

(*11*) "Registered graduate" means a graduate registered under the provisions of this Act ;

(*12*) "Statutes", "Ordinances" and "Regulations" mean respectively the Statutes, Ordinances and Regulations of the University made under this Act and for the time being in force ;

(*13*) "Teachers" means professors, readers, lecturers and such other persons imparting instruction in the University, an affiliated college or a recognized institution as may be declared to be teachers by the Statutes ;

(*14*) "Teachers of the University" means teachers appointed or recognized by the University for imparting instruction on its behalf ;

(*15*) "University" means the University of Poona constituted under this Act;

(*16*) "University Area" means the areas specified in Schedule II ;

(*17*) "University Department" means any collegiate, post-graduate or research institution or department maintained by the University.

CHAPTER II.

THE UNIVERSITY.

Incorporation of the University.

3. (*1*) The Chancellor, the Pro-Chancellor (if any), the first Vice-Chancellor of the University and the first members of the Court, the Executive Council and the Academic Council of the University and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "The University of Poona".

(*2*) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

(*3*) The University shall be competent to acquire and hold property, both moveable and immovable, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it for the purposes of the University and to contract and to do all other things necessary for the purposes of this Act.

Powers of the University.

4. Subject to such conditions as may be prescribed by or under the provisions of this Act, the University shall have the following powers, namely :—

(*1*) to provide for instruction, teaching and training in such branches of learning and courses of study as it may think fit and to make provision for research and for the advancement and dissemination of knowledge ;

(*2*) to make such provision as will enable affiliated colleges and recognized institutions to undertake specialization of studies and to organize common laboratories, libraries, museums and other equipment for teaching and research ;

(*3*) to establish, maintain and manage colleges, departments and institutes of research or specialized studies ;

(*4*) to institute professorships, readerships, lecturerships and any other posts of teachers required by the University ;

(*5*) to appoint or recognize persons as professors, readers or lecturers or otherwise as teachers of the University ;

(*6*) to institute degrees, titles, diplomas and other academic distinctions ;

(*7*) to hold examinations and confer degrees, titles, diplomas and other academic distinctions on persons who—

(*a*) have pursued approved courses of study in the University or in an affiliated college unless exempted therefrom in the manner prescribed by the Statutes, Ordinances and Regulations and have passed the examinations prescribed by the University, or

(*b*) have carried on research under conditions prescribed by the Ordinances and Regulations ;

(*8*) to confer honorary degrees, titles or other academic distinctions in the manner laid down by the Statutes ;

(*9*) to grant such diplomas to, and to provide such lectures, instruction and training, for persons not being enrolled students of the University as the University may determine by the Statutes, Ordinances and Regulations ;

(*10*) to admit educational institutions to the privileges of the University and to withdraw such privileges ;

(*11*) to inspect colleges and recognized institutions and to take measures to ensure that proper standards of instruction, teaching or training are maintained in them ;

(*12*) to control and co-ordinate the activities of, and give financial aid to, constituent colleges and constituent recognized institutions ;

(*13*) to hold and manage endowments and to institute and award fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes ;

(*14*) to make special provision for the spread of University education among classes and communities which are educationally backward ;

(*15*) to make special provision for disseminating knowledge and promoting arts and culture in rural areas ;

(*16*) to fix, to demand and to receive such fees and other charges as may be prescribed by the Ordinances ;

(*17*) to establish, maintain and manage hostels ;

(*18*) to recognize hostels not maintained by the University, to inspect such hostels and to withdraw recognition therefrom ;

(*19*) to supervise and control the residence, conduct and discipline of the students of the University and to make arrangements for promoting their health and general welfare ;

(*20*) to make provision for the maintenance of—

(*a*) University Officers' Training Corps or other similar training Corps ;
(*b*) Students' Unions ;
(*c*) Sports and Athletic Clubs ; and
(*d*) Employment Bureaux ;

(*21*) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine ; and

(*22*) to do all such acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University and generally to cultivate and promote arts, science and other branches of learning and culture.

Jurisdiction and admission to privileges.

5. (*1*) (*a*) No educational institution situate within the Poona area shall, save with the consent of the University and the sanction of the Provincial Government, be associated in any way with, or seek admission to any privileges of, any other University established by law.

(*b*) No educational institution situate within the University area other than the Poona area shall, save with the sanction of the Provincial Government, be associated in any way with, or seek admission to any privileges of, any other University established by law.

(*2*) Any such privileges enjoyed from such other University before the date on which this section comes into force by any educational institution situate within the University area shall be deemed to be withdrawn with effect from such date.

(*3*) With effect from such date all educational institutions admitted to the privileges of the University of Bombay and situate within the University area shall be deemed to be admitted to the privileges of the University, and the University shall, as far as may be possible and consistent with this Act, admit such institutions to all such privileges as they had from the University of Bombay immediately before such date.

(*4*) Any educational institution in the Province of Bombay situate outside the University area may, with the sanction of the Provincial Government, and any educational institution in an Indian State or other territories may apply to the University for being admitted to the privileges of the University and such institution may, subject to such conditions and restrictions as the University and the Provincial Government think fit to impose, be admitted to the privileges of the University.

University open to all irrespective of sex, religion, class, creed or opinion.

6. (*1*) No person shall be excluded from any office of the University or from membership of any of its authorities or from admission to any degree, diploma, title or other academic distinction or course of study on the sole ground of sex, race, creed, class, religious belief or political or other opinion:

Provided that the University may, subject to the previous sanction of the Provincial Government, maintain, affiliate or recognize any institution exclusively for women or reserve for women or members of classes and communities which are educationally backward places for the purposes of admission as students in any institution maintained by the University.

(*2*) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, class, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma, title or other academic distinction or to enjoy or exercise any privileges of the University or any benefaction thereof.

Inspection and inquiry.

7. (*1*) The Chancellor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories, libraries, museums, workshops and equipment, of any institution, college or hostel maintained, recognized by, or affiliated to, the University, of the teaching and other work conducted by the University and of the conduct of examinations held by the University; and to cause an inquiry to be made in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made and the University shall be entitled to be represented thereat.

(*2*) The Chancellor shall communicate to the Court and to the Executive Council his views with reference to the results of such inspection or inquiry and shall, after ascertaining the opinion of the Court and the Executive Council thereon, advise the University on the action to be taken.

(*3*) The Executive Council shall report to the Chancellor such action, if any, as it has taken or may propose to take upon the results of the inspection or inquiry. Such report shall be submitted with the opinion of the Court thereon and within such time as the Chancellor may direct.

(*4*) Where the Executive Council does not within a reasonable time take action to the satisfaction of the Chancellor, the Chancellor may, after considering any explanation furnished or representation made by the Executive Council, issue such directions as he may think fit and the Executive Council shall comply with such directions.

(*5*) The Provincial Government may, whenever it deems fit, cause a like inspection or inquiry to be made in the manner described in sub-sections (*1*) to (*3*) and shall have, for the purposes of such inspection or inquiry, all the powers of the Chancellor under the said sub-sections.

CHAPTER III.

Officers of the University.

Officers of the University.

8. The following shall be the officers of the University, namely :—

(*i*) The Chancellor,
(*ii*) The Pro-Chancellor, if any,
(*iii*) The Vice-Chancellor,
(*iv*) The Deans of Faculties,
(*v*) The Registrar, and
(*vi*) Such other officers in the service of the University as may be declared by the Statutes to be officers of the University.

The Chancellor.

9. (*1*) The Governor of Bombay for the time being shall be the Chancellor of the University :

Provided that the Chancellor shall be a person elected by the Court if the Court so decides after the expiry of the first five years from the date of the establishment of the University by a majority of not less than two-thirds of the total number of its members.

(*2*) If the Court so decides to elect a Chancellor, the manner of his election shall be prescribed by the Statutes.

(*3*) The Chancellor shall, by virtue of his office, be the head of the University and the president of the Court ; and shall, when present, preside at meetings of the Court and at any convocation of the University.

(*4*) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

The Pro-Chancellor.

10. (*1*) The Court may create the office of the Pro-Chancellor by a Statute to be framed by a majority of not less than two-thirds of the total number of its members.

(*2*) If such office is created, it shall be filled by nomination to be made by the Chancellor.

(*3*) The Pro-Chancellor shall hold office for a term of three years.

(*4*) The Pro-Chancellor shall exercise all the powers of the Chancellor in his absence or in the event of his being unable to perform the duties of his office.

The Vice-Chancellor.

11. (*1*) Subject to the confirmation of the Chancellor, the Vice-Chancellor shall be elected by the Court from among three persons recommended by a majority of the members of the Executive Council present at the meeting. Such recommendation and election shall be made according to the system of proportional representation by means of a single transferable vote.

(*2*) The Vice-Chancellor shall hold office for a term of three years.

(*3*) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Executive Council shall, as soon as possible, subject to the approval of the Chancellor, make such arrangements for carrying on the duties of the office of the Vice-Chancellor as it may think fit. Until such arrangements are made, the Dean nominated by the Chancellor for that purpose shall carry on the current duties of the office of the Vice-Chancellor.

(*4*) The Vice-Chancellor shall be an honorary officer but the Court may, by Statutes, make the office of the Vice-Chancellor a wholetime salaried office and determine the emoluments to be paid for such office and prescribe the conditions subject to which such office shall be held.

Powers of the Vice-Chancellor.

12. (*1*) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall, in the absence of the Chancellor and the Pro-Chancellor preside at meetings of the Court and any convocation of the University. He shall be an *ex-officio* member and the Chairman of the Executive Council, of the Academic Council and of the committees constituted under sections 46, 47 and 48. He shall be entitled to be present, with the right to speak, at any meeting of any other authority or body of the University, but shall not be entitled to vote thereat unless he is a member of that authority or body.

(*2*) The Vice-Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council. He may delegate this power to any other officer of the University.

(*3*) It shall be the duty of the Vice-Chancellor to ensure that this Act, the Statutes, Ordinances and Regulations are faithfully observed and he shall have all powers necessary for this purpose.

(*4*) (*a*) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, he shall take such action as he deems necessary and shall at the earliest opportunity thereafter report his action to such officer, authority or body as would have in the ordinary course dealt with the matter.

(*b*) When action taken by the Vice-Chancellor under this sub-section affects any person in the service of the University such person shall be entitled to prefer an appeal through the said officer, authority or body to the Executive Council within fifteen days from the date on which such action is communicated to him.

(*5*) The Vice-Chancellor shall give effect to the orders of the Executive Council regarding the appointment, dismissal and suspension of the persons in the service of the University or teachers of the University or regarding the recognition or withdrawal of the recognition of any such teacher and shall exercise general control over the affairs of the University. He shall be responsible for the discipline of the University in accordance with this Act, the Statutes and Ordinances.

(*6*) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes, Ordinances and Regulations.

13. The Registrar shall be a wholetime salaried officer and shall act as the Secretary of the Court, of the Executive Council and of the Academic Council. He shall be appointed by the Executive Council in accordance with the Statutes to be framed in this behalf; and his emoluments and conditions of service shall be determined by such Statutes. He shall exercise such powers and perform such duties as may be prescribed by the Statutes, Ordinances and Regulations. The Registrar.

14. The powers and duties of the officers of the University referred to in clause (*vi*) of section 8 shall be such as may be prescribed by the Statutes, Ordinances and Regulations. Other officers.

CHAPTER IV.

AUTHORITIES OF THE UNIVERSITY.

15. The following shall be the authorities of the University, namely :— Authorities of the University.

(*i*) The Court,
(*ii*) The Executive Council,
(*iii*) The Academic Council,
(*iv*) The Faculties,
(*v*) The Boards of Studies,
(*vi*) The Board of University Teaching in Poona, and
(*vii*) Such other bodies of the University as may be declared by the Statutes to be the authorities of the University.

16. (*1*) The Court shall consist of the following members, namely :— Court.

Class I—Ex-officio members.

(A) (*i*) The Chancellor,
(*ii*) The Pro-Chancellor (if any),
(*iii*) The Vice-Chancellor,
(*iv*) Ex-Vice-Chancellors of the University,
(*v*) The Deans of Faculties,
(*vi*) The Registrar.

(B) (*i*) The Chief Justice of Bombay, or any other Judge of the High Court nominated by him,
(*ii*) The Minister of Education, Bombay,
(*iii*) The Director of Public Instruction, Bombay Province, or a Deputy Director of Public Instruction designated by the Provincial Government,
(*iv*) The Surgeon General with the Government of Bombay,
(*v*) A Director of Agriculture designated by the Provincial Government,
(*vi*) The Director of Industries, Bombay,
(*vii*) A Chief Engineer with the Government of Bombay designated by the Provincial Government,
(*viii*) Vice-Chancellors of other Universities established by law in the Province of Bombay,
(*ix*) Such other *ex-officio* members, not exceeding five, as may be designated by the Statutes,
(*x*) The Secretary, the Additional Secretary or the Joint Secretary to the Department of Education as the Provincial Government may determine.

(C) (*i*) Heads of University Departments,
(*ii*) Principals of affiliated colleges,
(*iii*) Heads of recognized institutions.

Class II—Ordinary members.

(A) Elected as specified below :—

(*i*) three members by secondary teachers of high schools from amongst such teachers,

(*ii*) four members by head masters of high schools from amongst such head masters,

(*iii*) five members by teachers from amongst themselves,

(*iv*) by public associations or bodies as under :—

(*a*) one member by the Poona City Borough Municipality,

(*b*) one member by the Poona Suburban Borough Municipality,

(*c*) one member by the Sholapur Borough Municipality,

(*d*) ten members, one each by the Municipalities (other than the Municipalities specified in (*a*), (*b*) and (*c*) above) in each of the districts specified in Schedule II,

(*e*) ten members, one each by District Local Boards in each of the districts specified in Schedule II,

(*f*) four members by the Bombay Legislative Assembly from amongst its members, of whom one shall be the representative of the University of Bombay, on the Bombay Legislative Assembly if he is not already a member of the Court,

(*g*) one member by the Bombay Legislative Council from amongst its members,

(*h*) members not exceeding three, by such commercial and industrial bodies in the University area as may be designated by the Statutes, from amongst the members of such bodies,

(*i*) two members by registered Trade Unions in the University area designated by the Statutes, from amongst their members,

(*j*) twenty-five members, who shall not be persons engaged in the profession of teaching, by registered graduates :

Provided that—

(*i*) every person elected under clauses (*i*) to (*iii*) and under sub-clauses (*g*), (*h*), and (*i*) of clause (*iv*) shall continue to hold the office of a member of the Court only so long as he is a secondary teacher or headmaster of a high school or a teacher or a member of the electing body or bodies, as the case may be ;

(*ii*) the members elected by the Bombay Legislative Assembly shall not cease to hold office by reason of the expiry of the duration of the Assembly electing them but shall continue to hold office thereafter up to the date on which new members of the Court are elected by the next Assembly.

(B) Twenty-five members nominated by the Chancellor, including distinguished educationists, women and representatives of the minorities and backward communities.

(C) Such number of members as the Statutes may provide to represent Indian States singly or in groups, the educational institutions in which are admitted to the privileges of the University.

(D) Donors to, or for the purposes of, the University, of money or property of the value of not less than one lakh of rupees.

Such donors shall, if willing to serve, be members for life subject to the provisions of section 57.

(E) One nominee of each of the bodies giving a donation to, or for the purposes of, the University, of money or property of the value of not less than one lakh of rupees :

Provided that the right of making such nomination and, subject also to the provisions of section 57, the tenure of such nominee shall not extend beyond the period of twenty years from the date of the acceptance by the Executive Council of any such donation.

Explanation.—For the purposes of paragraphs (D) and (E) the value of the property means the market value of the property at the date of acceptance of the donation by the Executive Council.

(F) Such number of members, not exceeding three, as may be fixed by the Statutes, to be elected from amongst themselves by donors to the University each donating less than one lakh of rupees but not less than twenty-five thousand rupees.

(*2*) The term of office of the elected members and of the members in paragraphs (B) and (C) in *Class II* shall be five years.

Meetings of the Court.

17. (*1*) The Court shall, on a date to be fixed by the Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(*2*) The Vice-Chancellor may, whenever he thinks fit, and shall, upon a requisition in writing signed by not less than twenty-five members of the Court, convene a special meeting of the Court.

Powers and duties of the Court.

18. (*1*) Subject to such conditions as may be prescribed by or under the provisions of this Act, the Court shall exercise the following powers and perform the following duties, namely :—

(*i*) to make provision for instruction, teaching and training in such branches of learning and courses of study as it may think fit, for research and for the advancement and dissemination of knowledge ;

(*ii*) to make such provision as will enable affiliated colleges and recognised institutions to undertake specialization of studies and to organize and make provision for common laboratories, libraries, museums and other equipment for teaching and research ;

(*iii*) to establish and maintain colleges, departments and institutes of research and specialized studies ;

(*iv*) to institute professorships, readerships, lecturerships and any other post of teachers required by the University ;

(*v*) to institute fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes ;

(*vi*) to institute and confer degrees, titles diplomas and other academic distinctions ;

(*vii*) to confer, on the recommendation of the Executive Council, honorary degrees, titles or other academic distinctions ;

(*viii*) to make, amend or repeal the Statutes ;

(*ix*) to consider, cancel, refer back but not amend Ordinances ;

(*x*) to consider and pass resolutions on the annual reports and annual accounts ;

(*xi*) to consider the annual financial estimates prepared by the Executive Council and pass resolutions with reference thereto ;

(*xii*) to elect office-bearers and authorities as provided in the Act and the Statutes ; and

(*xiii*) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes, Ordinances and Regulations.

(*2*) The powers and duties under clauses (*i*) to (*vii*) of sub-section (*1*) shall not be exercised except upon the recommendations made by the Executive Council and the Academic Council.

Executive Council.

19. (*1*) The Executive Council shall be the executive authority of the University and shall consist of the following, namely :—

(*i*) The Vice-Chancellor—*ex-officio* Chairman,

(*ii*) The Director of Public Instruction, Bombay Province, or the Deputy Director of Public Instruction who is a member of the Court,

(*iii*) Nine persons elected by the Court from amongst its members, and

(*iv*) Five persons elected by the Academic Council from amongst its members to represent the different Faculties in the manner prescribed by the Statutes :

Provided that a member elected under clause (*iii*) or (*iv*) shall cease to hold office as such member if he ceases to be a member of the Court or Academic Council, as the case may be.

(*2*) No whole-time employee of the University shall be eligible for election as member of the Executive Council.

(*3*) The term of office of the elected members of the Executive Council shall be three years.

Powers and duties of the Executive Council.

20. (*1*) Subject to such conditions as may be prescribed by or under the provisions of this Act, the Executive Council shall exercise the following powers and perform the following duties, namely :—

(*i*) to hold, control and administer the property and funds of the University ;

(*ii*) to enter into, vary, carry out and cancel contracts on behalf of the University in the exercise or performance of the powers and duties assigned to it by the Act and the Statutes ;

(*iii*) to determine the form, provide for the custody and regulate the use, of the common seal of the University ;

(*iv*) to administer funds placed at the disposal of the University for specific purposes ;

(*v*) to frame the annual financial estimates of the University and to submit them to the Court ;

(*vi*) to make provision for buildings, premises, furniture, apparatus and other means needed for carrying on the work of the University ;

(*vii*) to accept on behalf of the University bequests, donations and transfers of any moveable or immovable property to the University ;

(*viii*) to transfer any moveable or immovable property on behalf of the University ;

(*ix*) to manage and regulate the finances, accounts and investment of the University ;

(*x*) to make provision for the maintenance of—

(*a*) University Officers' Training Corps or other similar training Corps ;

(*b*) Students' Unions ;

(*c*) Sports and Athletic Clubs ;

(*d*) Employment Bureaux ;

(*xi*) to manage colleges, departments, institutes of research or specialised studies, laboratories, libraries, museums and hostels maintained by the University;

(*xii*) to recognize hostels;

(*xiii*) to register high schools situate outside the Province of Bombay, as may be provided by the Statutes;

(*xiv*) to arrange for and direct the inspection of affiliated colleges, recognize institutions and hostels, to issue instructions for maintaining their efficiency and for ensuring proper conditions of employment for members of their staff, and in case of disregard of such instructions, to recommend modification of the conditions of their affiliation or recognition or take such other steps as it deems proper;

(*xv*) to call for reports, returns and other information from colleges, recognized institutions or hostels;

(*xvi*) to supervise and control the residence, conduct and discipline of the students of the University and to make arrangements for promoting their health and general welfare;

(*xvii*) to recommend to the Court the conferment of honorary degrees, title and academic distinctions in the manner prescribed by the Statutes;

(*xviii*) to award fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes;

(*xix*) to appoint teachers and servants of the University, fix their emoluments, if any, and define their duties and the conditions of their service and discipline;

(*xx*) to recognise a member of the staff of an affiliated college or recognized institution as a professor, reader, lecturer or teacher of the University and withdraw such recognition;

(*xxi*) to appoint examiners, to fix their remuneration and to arrange for the conduct of, and for publishing the results of, the University examinations and other tests;

(*xxii*) to fix, demand and receive such fees and other charges as may be prescribed by the Ordinances;

(*xxiii*) to make, amend and cancel the Ordinances;

(*xxiv*) to accept, reject or refer back Regulations framed by the Academic Council;

(*xxv*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act, Statutes, Ordinances and Regulations;

(*xxvi*) to exercise all powers of the University not otherwise provided for in the Act or the Statutes and all other powers which are requisite to give effect to the provisions of this Act or the Statutes.

(*2*) The Executive Council shall make a report to the Court about all acceptances or transfers of property referred to in clause (*vii*) of sub-section (*1*).

(*3*) The Executive Council shall not transfer any immovable property without the previous sanction of the Court.

(*4*) The Executive Council may by Ordinances appoint Committees to carry out its administrative work and define their constitution, functions and tenure.

Academic Council.

21. (*1*) The Academic Council shall be the academic body of the University and shall consist of the following persons, namely :—

Class I—Ex-officio.

(*i*) The Vice-Chancellor—*ex-officio* Chairman,
(*ii*) Deans of Faculties,
(*iii*) Principals of affiliated colleges,
(*iv*) Heads of recognized institutions,
(*v*) Professors and Readers appointed by the University,
(*vi*) Chairmen of the Boards of Studies.

Class II—Other members.

(*i*) One representative of the teachers in each degree college,
(*ii*) Three persons not engaged in the profession of teaching whom the Executive Council may nominate by virtue of their expert knowledge :

Provided that a person elected under sub-clause (*i*) in Class II shall continue to hold the office of a member of the Academic Council only so long as he is a teacher.

(*2*) The term of office of the members of the Academic Council other than *ex-officio* members shall be three years.

Powers and duties of the Academic Council.

22. (*1*) The Academic Council shall have the control and general regulation of, and be responsible for, the maintenance of the standards of teaching and examinations within the University.

(*2*) Without prejudice to the generality of the foregoing provision and subject to such conditions as may be prescribed by or under the provisions of this Act, the Academic Council shall exercise the following powers and perform the following duties, namely :—

(*i*) to make Regulations laying down courses of study ;

(*ii*) to make Regulations regarding the special courses of study or division of subjects in constituent and other affiliated colleges and in recognized institutions ;

(*iii*) to arrange for co-ordination of studies and teaching in constituent and other affiliated colleges and in recognized institutions ;

(*iv*) to promote research within the University ;

(*v*) to make proposals for allocating subjects to the Faculties and to assign its own members to the Faculties ;

(*vi*) to make proposals for the establishment of colleges, departments, institutes of research and specialized studies, libraries, laboratories and museums ;

(*vii*) to make proposals for the institution of professorships, readerships, lecturerships and any other posts of teachers required by the University and, for prescribing the duties and fixing the emoluments of such posts ;

(*viii*) to make proposals for the institution of fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes and to make Regulations for their award ;

(*ix*) to make Regulations regarding the examinations of the University and the conditions on which students shall be admitted to such examinations ;

(*x*) to make Regulations prescribing equivalence of examinations ;

(*xi*) to make Regulations prescribing the manner for granting exemptions from approved courses of studies in the University or in affiliated colleges for qualifying for degrees, titles, diplomas and other academic distinctions ;

(*xii*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act, Statutes, Ordinances and Regulations; and

(*xiii*) generally to advise the University on all academic matters.

Faculties and their functions.

23. (*1*) The University shall include the Faculties of Arts, Science, Law, Medicine, Engineering, Agriculture and such other Faculties as may be prescribed by the Statutes. Each Faculty shall comprise such subjects as may be prescribed by the Statutes.

(*2*) Each Faculty shall consist of—

(*i*) members of the Academic Council who are not members of the Boards of Studies and who are assigned to the Faculty by the Academic Council, and

(*ii*) members of the Boards of Studies for the subjects comprised in the Faculty.

Explanation.—For the purposes of the assignment of members under this sub-section, the Academic Council shall not include Deans of Faculties.

(*3*) The powers and duties of the Faculties and the conditions governing the terms of offices of their members shall be as prescribed by the Statutes.

Deans of Faculties.

24. (*1*) There shall be a Dean of each Faculty who shall be elected by the Faculty from amongst its members. The term of office of a Dean shall be two years.

(*2*) The Dean of each Faculty shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to that Faculty.

Boards of Studies.

25. (*1*) There shall be a Board of Studies for every subject or group of subjects as may be prescribed by the Statutes.

(*2*) Each Board shall consist of—

(*i*) Heads of the University Departments in the subjects for which the Board is constituted;

(*ii*) Heads of departments in the said subjects in degree colleges and recognized institutions;

(*iii*) such classes of teachers of the University in the said subjects, in such numbers and elected in such manner, as may be prescribed by the Statutes;

(*iv*) persons, who shall not be teachers of the University, to be co-opted by the Board, not exceeding such number as may be prescribed by the Statutes.

(*3*) The Chairman shall be nominated by the Vice-Chancellor from amongst the Heads of the University Departments or if there is no such University Department from amongst the Heads of departments in the degree colleges or recognized institutions in the subjects for which the Board is constituted.

(*4*) The term of office of elected or co-opted members shall be three years.

(*5*) The powers and duties of the Boards of Studies shall be as prescribed by the Statutes.

Explanation.—For the purposes of this section, a department in a degree college means a department which imparts instruction in prescribed courses up to and for the degree examination.

University Boards.

26. (*1*) The University shall establish a Board of Extra-Mural Studies, a Board for Students' Welfare and such other Boards as may be prescribed by the Statutes.

(*2*) The constitution, powers and duties of the Boards established under sub-section (*1*) shall be as prescribed by the Ordinances.

Other authorities.

27. The constitution, powers and duties of such other bodies as may be declared by the Statutes to be authorities of the University shall be as prescribed by the Statutes.

CHAPTER V.

STATUTES, ORDINANCES AND REGULATIONS.

Statutes.

28. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

(*i*) conferment of honorary degrees ;

(*ii*) holding of convocations to confer degrees ;

(*iii*) powers and duties of the officers of the University ;

(*iv*) constitution, powers and duties of the authorities of the University save as provided in this Act ;

(*v*) institution and maintenance by the University of departments, colleges, institutes of research or specialized studies and hostels ;

(*vi*) acceptance and management of bequests, donations and endowments ;

(*vii*) registration of graduates and maintenance of a register of registered graduates ;

(*viii*) procedure at meetings of the authorities of the University and for the transaction of their business ; and

(*ix*) all matters which by this Act are to be or may be prescribed by the Statutes.

Statutes—their making, amendment, repeal and operation.

29. (*1*) The Statutes may be made by the Court or may be amended, repealed or added to by Statutes made by the Court, in the manner hereinafter provided.

(*2*) The Court may take into consideration the draft of a Statute either of its own motion or on a proposal by the Executive Council.

(*3*) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court.

(*4*) Such draft shall be considered by the Court at its next succeeding meeting. The Court may approve such draft and pass the Statute or may reject it or return it to the Executive Council for reconsideration either in whole or in part together with any amendments which the Court may suggest. After any draft so returned has been further considered by the Executive Council together with any amendments suggested by the Court, it shall be again presented to the Court with the report of the Executive Council thereon and the Court may then deal with the draft in any manner it thinks fit.

(*5*) Where a Statute affects the powers or duties of any officer, authority or Board of the University—

(*i*) the Executive Council shall before proposing the draft of such Statute ascertain and consider the views of the officer, authority or Board concerned ; and

(*ii*) the Court before passing any such Statute taken into consideration of its own motion shall ascertain and consider the views of the officer, authority or Board concerned and the opinion of the Executive Council.

(*6*) All Statutes passed by the Court from time to time shall be submitted to the Provincial Government and shall be liable to be cancelled by the Provincial Government within a period of one year from the date they were received by it :

Provided that before a Statute is cancelled the Court shall be given an opportunity to express its views.

Ordinances.

30. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Executive Council may make Ordinances to provide for all or any of the following matters :—

(*i*) conditions under which students shall be admitted to courses of studies for degrees, titles, diplomas and other academic distinctions ;

(*ii*) conditions of residence, conduct and discipline of students of the University ;

(*iii*) conditions governing the appointment and the duties of examiners ;

(*iv*) conduct of examinations ;

(*v*) recognition of hostels ;

(*vi*) recognition of teachers of the University ;

(*vii*) inspection of affiliated colleges, recognized institutions and hostels ;

(*viii*) mode of execution of contracts or agreements for, or on behalf of, the University ;

(*ix*) rules to be observed and enforced by colleges and recognized institutions in respect of transfer of students ;

(*x*) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances ; and

(*xi*) generally all matters for which provision is, in the opinion of the Executive Council, necessary for the exercise of the powers conferred or the performance of the duties imposed upon the Executive Council by this Act or the Statutes.

Making of Ordinances.

31. (*1*) Ordinances shall be made by the Executive Council :

Provided that no Ordinance concerning the matters referred to in clauses (*i*), (*iii*), (*iv*) and (*vi*) of section 30 or any other matter connected with the maintenance of the standards of teaching and examinations within the University shall be made unless a draft of the same has been proposed by the Academic Council.

(*2*) The Executive Council shall not have power to amend any draft proposed by the Academic Council under sub-section (*1*) but may reject it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(*3*) All Ordinances made by the Executive Council shall, except as provided by this Act, have effect from such date as it may direct but every Ordinance so made shall be laid before the Court and shall be considered by the Court at its next succeeding meeting.

(*4*) The Court shall have power by a resolution to cancel or to refer back but not to amend any such Ordinance. The resolution shall be passed by a majority of not less than two-thirds of the members present at such meeting, the majority comprising not less than one-half of the members of the Court.

(*5*) The Vice-Chancellor shall, on the application of not less than fifty members of the Court, suspend the operation of any such Ordinance until the Court has considered it as provided in sub-section (*3*).

Regulations and Rules.

32. (*1*) The Academic Council may, subject to the approval of the Executive Council, make Regulations, consistent with this Act, the Statutes and the Ordinances, providing for all matters which by this Act, the Statutes or the Ordinances are to be provided for by Regulations and for all other matters solely concerning itself.

(*2*) Any authority of the University specified in clauses (*iv*) to (*vii*) of section 15 and any other Board of the University may, subject to the approval of the Executive Council, make Rules, consistent with this Act, the Statutes, Ordinances and Regulations, providing for all matters solely concerning such authority or Board.

CHAPTER VI.

AFFILIATION AND RECOGNITION.

Affiliation.

33. (*1*) A college applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Executive Council and the Academic Council—

(*a*) that the college will supply a need in the locality, having regard to the type of education intended to be provided by the college, the existing provision for the same type of education made by other colleges in the neighbourhood, and the suitability of the locality where the college is to be established ;

(*b*) that the college is to be under the management of a regularly constituted governing body ;

(*c*) that the strength and qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction, teaching or training to be undertaken by the college ;

(*d*) that the buildings in which the college is to be located are suitable, and that provision will be made, in conformity with the Ordinances, for the residence in the college or in lodgings approved by the college, of students not residing with their parents or guardians, and for the supervision and welfare of students ;

(*e*) that due provision has been or will be made for a library ;

(*f*) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the Statutes, Ordinances and Regulations for imparting instruction in that branch of science in a properly equipped laboratory or museum ;

(*g*) that due provision will, as far as circumstances may permit, be made for the residence of the Principal and some members of the teaching staff in or near the college or the place provided for the residence of students ;

(*h*) that the financial resources of the college are such as to make due provision for its continued maintenance and efficient working ; and

(*i*) that the college rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing college in the same neighbourhood as would be injurious to the interests of education.

The application shall further contain an assurance that after the college is affiliated, any transference of management and all changes in the teaching staff and all other changes which result in any of the aforesaid requirements not being fulfilled or continued to be fulfilled shall be forthwith reported to the Executive Council.

(*2*) On receipt of a letter of application under sub-section (*1*), the Executive Council shall—

(*a*) direct a local inquiry to be made by a competent person or persons authorized, by the Executive Council in this behalf in respect of the matters referred to in sub-section (*1*) and such other matters as may be deemed necessary and relevant ;

(*b*) make such further inquiry as may appear to it to be necessary ; and

(*c*) record its opinion after consulting the Academic Council on the question whether the application should be granted or refused, either in whole or in part, stating the results of any inquiry under clauses (*a*) and (*b*).

(*3*) The Registrar shall submit the application and all proceedings, if any, of the Academic Council and the Executive Council relating thereto to the Provincial Government which, after such inquiry as may appear to it necessary, shall grant, refuse the application or any part thereof.

(*4*) Where the application or any part thereof is granted, the order of the Provincial Government shall specify the courses of instruction in respect of which the college is affiliated, and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(*5*) As soon as possible after the Provincial Government makes its order, the Registrar shall submit to the Court a full report regarding the application, the action taken thereon under sub-sections (*2*) to (*4*) and of all proceedings connected therewith.

(*6*) An application under sub-section (*1*) may be withdrawn at any time before an order is made under sub-section (*3*).

Extension of affiliation.

34. Where a college desires to add to the courses of instruction in respect of which it is affiliated the procedure prescribed by section 33 shall, so far as may be, be followed.

Recognition of institutions of research and specialized studies.

35. (*1*) The Executive Council shall have the power, after consultation with the Academic Council, to recognize as a recognized institution any institution of research of specialized studies other than a college.

(*2*) An institution applying for recognition under this section shall send a letter of application to the Registrar and shall give full information in the letter of application in respect of the following matters, namely :—

(*a*) constitution and personnel of the managing body ;

(*b*) subjects and courses in regard to which recognition is sought ;

(*c*) accommodation, equipment and the number of students for whom provision has been or is proposed to be made ;

(*d*) the strength of the staff, their qualifications and salaries and the research work done by them ;

(*e*) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for the continued maintenance and efficient working of the institution.

(*3*) Before taking the application into consideration the Executive Council may call for any further information which it may deem necessary.

(*4*) If the Executive Council decides to take the application into consideration, it may direct a local inquiry to be made by a competent person or persons authorized by it in this behalf. After considering the report made as a result of such local inquiry and making such further inquiry as may appear to it to be necessary, the Executive Council shall, after consultation with the Academic Council, grant or refuse the application or any part thereof. Where the application or any part thereof is granted, the Executive Council shall specify the subjects and the courses of instruction in respect of which the institution is recognized and make a report to that effect to the Academic Counicl and the Court at their next succeeding meetings. Where the application or any part thereof is refused the grounds of such refusal shall be stated.

Inspection of colleges and reports.

36. (*1*) Every affiliated college and recognized institution shall furnish such reports, returns and other information as the Executive Council after consulting the Academic Council may require to enable it to judge of the efficiency of the college or institution.

(*2*) The Executive Council shall cause every such college or institution to be inspected from time to time by one or more competent persons authorized by the Executive Council in this behalf.

(*3*) The Executive Council may call upon any college or institution so inspected to take, within a specified period, such action as may appear to it to be necessary in respect of any of the matters referred to in sub-section (*1*) of section 33 and sub-section (*2*) of section 35.

Withdrawal of affiliation.

37. (*1*) The rights conferred on a college by affiliation may be withdrawn in whole or in part or modified if the college has failed to carry out any of the provisions of sub-section (*1*) of section 33 or the college has failed to observe any of the conditions of its affiliation or the college is conducted in a manner which is prejudicial to the interests of education.

(*2*) A motion for the withdrawal or the modification of such rights shall be initiated only in the Executive Council. The member of the Executive Council who intends to move such a motion shall give notice of it and shall state in writing the grounds on which it is made.

(*3*) Before taking the said motion into consideration, the Executive Council shall send a copy of the notice and written statement mentioned in sub-section (*2*) to the Principal of the college concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the college will be considered by the Executive Council:

Provided that the period so specified may, if necessary, be extended by the Executive Council.

(*4*) On receipt of the representation or on the expiry of the period referred to in sub-section (*3*), the Executive Council, after considering the notice of motion, statement and representation, and after such inspection by any competent person or persons authorised by the Executive Council in this behalf, and such further inquiry as may appear to it to be necessary and after consulting the Academic Council, shall make a report to the Court.

(*5*) On receipt of the report under sub-section (*4*) the Court shall, after such further inquiry, if any, as may appear to it to be necessary, record its opinion in the matter:

Provided that no resolution of the Court recommending the withdrawal of affiliation shall be deemed to have been passed by it unless the resolution has obtained the support of two-thirds of the members present at a meeting of the Court, such majority comprising not less than one-half of the members of the Court.

(*6*) The Registrar shall submit the proposal and all proceedings, if any, of the Academic Council, the Executive Council and the Court, relating thereto, to the Provincial Government which, after such further inquiry, if any, as may appear to it to be necessary, shall make such order as it deems fit.

(*7*) Where, by an order made under sub-section (*6*) the rights, conferred by a affiliation are withdrawn in whole or in part or modified, the grounds for such withdrawal or modification shall be stated in the order.

Withdrawal of recognition.

38. (*1*) The rights conferred on an institution by recognition may be withdrawn or suspended for any period if the institution has failed to observe any of the conditions of its recognition or the institution is conducted in a manner which is prejudicial to the interest of education.

(*2*) A motion for such withdrawal or suspension shall be initiated only in the Executive Council. The member of the Executive Council who intends to move such a motion shall give notice of it and shall state in writing the grounds on which it is made.

(*3*) Before taking the said motion into consideration, the Executive Council shall send a copy of the notice and written statement mentioned in sub-section (*2*) to the head of the institution concerned, together with an intimation that any representation in writing submitted within a period specified in the intimation on behalf of the institution will be considered by the Executive Council :

Provided that the period so specified may, if necessary, be extended by the Executive Council.

(*4*) On receipt of the representation or on the expiry of the period referred to in sub-section (*3*), the Executive Council, after considering the notice of motion, statement and representation and after such inspection by any competent person or persons authorized by the Executive Council in this behalf, and after such further inquiry as may appear to it to be necessary and after consulting the Academic Council, shall make a report to the Court if the Executive Council decides that the recognition should be withdrawn or suspended. No such report for withdrawal or suspension shall be made unless a resolution to that effect is supported by at least two-thirds of the members present at the meeting of the Executive Council.

(*5*) On receipt of the report under sub-section (*4*) the Court shall, after such further inquiry, if any, as may appear to it to be necessary, decide whether the recognition should be withdrawn or suspended, as the case may be :

Provided that the recognition shall not be withdrawn or suspended unless a resolution of the Court to that effect is supported by a majority of at least two-thirds of the members present at the meeting of the Court, such majority comprising not less than one-half of the members of the Court.

CHAPTER VII.

ORGANIZATION WITHIN THE POONA AREA AND FOR POSTGRADUATE TEACHING.

Constituent colleges and institutions.

39. (*1*) All colleges within the Poona area which are admitted to the privileges of the University under sub-section (*3*) of section 5 and all colleges within the said area which may thereafter be affiliated to the University shall be the constituent colleges of the University.

(*2*) All institutions within the Poona area recognized under sections 35 and 65 shall be the constituent recognized institutions of the University.

(*3*) The relations of the constituent colleges and constituent recognized institutions with the University shall be governed by the Statutes to be made in that behalf, and such Statutes shall provide in particular for the exercise by the University of the following powers in respect of the constituent degree colleges and constituent recognized institutions :—

(*i*) to lay down minimum educational qualifications for the different classes of teachers and tutorial staff employed by such colleges and institutions and the conditions of their service ;

(*ii*) to approve the appointments of the teachers made by such colleges and institutions ;

(*iii*) to require each such college and institution to contribute a prescribed quota of recognized teachers in any subject for teaching on behalf of the University ;

(*iv*) to co-ordinate and regulate the facilities provided and expenditure incurred by such colleges and institutions in regard to libraries, laboratories and other equipments for teaching and research ;

(*v*) to require such colleges and institutions, when necessary, to confine the enrolment of students to certain subjects ;

(*vi*) to levy contributions from such colleges and institutions and make grants to them ; and

(*vii*) to require satisfactory arrangements for tutorial and similar other work in such colleges and institutions and to inspect such arrangements from time to time.

Teaching within the Poona area and post-graduate teaching.

40. (*1*) Within the Poona area, all instruction teaching and training beyond the stage of the Intermediate examinations and within the University area all post-graduate instruction, teaching and training shall be conducted by the University and shall be imparted by the teachers of the University :

Provided that a constituent degree college or a constituent recognized institution shall supplement such teaching by tutorial or other instruction, teaching or training in the manner to be prescribed by the Regulations to be made by the Academic Council.

(*2*) For the purpose of organizing and co-ordinating the instruction, teaching and training within the Poona area, and the post-graduate instruction, teaching and training in the University area, there shall be constituted a Board to be known as the Board of University Teaching in Poona. The constitution, powers and duties of the Board shall be as prescribed by the Statutes.

CHAPTER VIII.

ENROLMENT AND DEGREES.

Qualification for enrolment of students of the University.

41. No student shall be enrolled as a student of the University unless he has passed—

[1][(*i*) the Secondary School Certificate Examination conducted by the Secondary School Certificate Examination Board in such subjects and with such standards of attainments as may be prescribed by the Statutes, or]

(*ii*) the Entrance Examination, if any, which may be instituted by the University with the consent of the Provincial Government, and held in such subjects and in such manner as may be prescribed by the Statutes, or

(*iii*) any other examination prescribed as equivalent to the examinations referred to in clauses (*i*) and (*ii*),

and possesses such further qualification, if any, as may be prescribed by the Statutes.

Residence of students.

42. Every student of the University shall reside in a hostel or under such conditions as may be prescribed by the Ordinances.

Degrees, titles, diplomas and other academic distinctions.

43. The Court may institute and confer such degrees, titles, diplomas and other academic distinctions as may be prescribed by the Statutes.

[1] This clause was substituted for the original by Bom. 49 of 1948, s 35.

44. If not less than two thirds of the members of the Executive Council recommend that an honorary degree, title or other academic distinction be conferred on any person on the ground that he is in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such degree, title or other academic distinction and where their recommendation is supported by a majority of not less than two-thirds of the members of the Court present at a meeting of the Court, such majority comprising not less than one-half of the members of the Court, and the recommendation is confirmed by the Chancellor, the Court may confer on such person the honorary degree, title or other academic distinction so recommended without requiring him to undergo any examination. Honorary degree.

45. (*1*) The Chancellor may, on the recommendation of the Executive Council and of the Court supported by a majority of not less than two-thirds of the members of each body present at its meeting such majority comprising not less than one-half of the members of each body, remove the name of any person from the register of graduates or withdraw from any person a diploma or degree if he has been convicted by a Court of Law of any offence which, in the opinion of the Executive Council and the Court, is a serious offence involving moral turpitude or if he has been guilty of scandalous conduct. Removal from membership of University and withdrawal of degree or diploma.

(*2*) No action under this section shall be taken unless the person concerned is given an opportunity to be heard in his defence in the manner prescribed by the Statutes.

CHAPTER IX.

COMMITTEES.

46. (*1*) No person shall be appointed as a teacher of the University except on the recommendation of a Committee of Selection constituted for the purpose. Committee of Selection for appointment of teachers of the University.

(*2*) The members of the Committee shall be—

(*i*) the Vice-Chancellor—*ex officio* Chairman ;

(*ii*) four persons having special knowledge of the subject for which the teacher is to be appointed, to be selected as follows :—

(*a*) one by the Academic Council who shall be a member of the Faculty in which the subject is comprised ;

(*b*) one by the Academic Council and two by the Executive Council, who shall not be members of the Court, members of Faculties or teachers.

(*3*) The Committee shall investigate the merits of the various candidates, and shall recommend to the Executive Council the names, if any, of persons whom it considers suitable for the post, arranged in the order of merit.

(*4*) Out of the persons so recommended, the Executive Council shall make the final selection ;

Provided that where the Executive Council proposes to make the appointment otherwise than in accordance with the order of merit arranged by the Committee, the Executive Council shall record its reasons and submit its proposal for the sanction of the Chancellor.

47. (*1*) No person shall be recognized as a teacher of the University except on the recommendation of a Committee constituted for the purpose. Committee for recognition of

teachers of the University.

(2) The members of the Committee shall be—

(i) The Vice-Chancellor—*ex-officio* Chairman;

(ii) The Head of the University Department, if any;

(iii) Four persons having special knowledge of the subject for which the teacher is to be recognized, to be selected as follows, namely :—

(a) Two by the Executive Council who shall not be members of the Court, members of Faculties or teachers,

(b) Two by the Academic Council from amongst its members.

Appointment of examiners Committee.

48. (1) A Committee for each Faculty shall be formed every year for the purpose of drawing up lists for appointments to University examinerships.

(2) The members of the Committee shall be—

(i) The Vice-Chancellor—*ex-officio* Chairman;

(ii) The Dean of the Faculty;

(iii) Two members appointed by the Academic Council;

(iv) Two members appointed by the Executive Council.

(3) The Committee shall draw up the lists from amongst persons included in panels to be prepared by the Boards of Studies. The lists so drawn up shall be submitted for approval to the Academic Council and the Executive Council. The Executive Council shall make the appointments of examiners on the advice of the Academic Council:

Provided that no change in the lists shall be suggested or made by the Academic Council or the Executive Council except by passing a special resolution stating the specific grounds on which each change suggested or made is based.

(4) If any examiner is unable to act for any cause and a fresh appointment cannot be made in time by the Executive Council, the Vice-Chancellor shall appoint another examiner to fill the vacancy and shall report such appointment to the Executive Council.

Committees.

49. All the authorities of the University shall have power to appoint committees. Such committees may include persons who are not members of the authority appointing the committee.

CHAPTER X.

FINANCE.

University Fund.

50. (1) The University shall establish a fund to be called the University Fund.

(2) The following shall form part of, or be paid into, the University Fund :—

(a) any contribution or grant by the Provincial Government,

(b) the income of the University from all sources including income from fees and charges,

(c) bequests, donations, endowments and other grants, if any.

(3) The University Fund shall be kept in any scheduled bank as defined in the Reserve Bank of India Act, 1934, or invested in securities authorized by the Indian Trusts Act, 1882, at the discretion of the Executive Council. II of 1934. II of 1882.

Annual accounts and Financial estimates.

51. (1) The annual accounts of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Provincial Government for audit.

(2) The accounts when audited shall be published by the Executive Council in the *Official Gazette* and copies thereof shall, together with the copies of the Audit Report, be submitted to the Court and to the Provincial Government.

(3) The Executive Council shall also prepare, before such date as may be prescribed by the Statutes, the financial estimates for the ensuing year.

(4) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting and the Court may pass resolutions with reference thereto and communicate the same to the Executive Council which shall take them into consideration and take such action thereon as it thinks fit, and finally adopt the accounts and financial estimates. The Executive Council shall inform the Court, at its next meeting, of the action taken by it or of its reasons for taking no action.

Annual Report.

52. The Annual Report of the University shall be prepared under the direction of the Executive Council and shall be submitted to the Court on or before such date as may be prescribed by the Statutes and shall be considered by the Court at the annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council which shall take such action as it thinks fit; and the Executive Council shall inform the Court at its next meeting of the action taken by it or of its reasons for taking no action.

CHAPTER XI.

Supplementary Provisions.

Conditions of service.

53. Save as otherwise provided by or under this Act, every salaried officer and teacher of the University shall be appointed under a written contract. The contract shall be lodged with the Registrar of the University and a copy thereof shall be furnished to the officer or teacher concerned.

Tribunal of arbitration.

54. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final and no suit shall lie in any Civil Court in respect of the matter decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1940, and the provisions of that Act shall apply accordingly.

X of 1940.

Pension, Insurance and Provident Fund.

55. The University shall make adequate provisions for the benefit of its officers, teachers and other servants in matters of insurance, pension and provident fund or for other benefits as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes.

Elections to be by proportional representation.

56. Every election to the Court, the Executive Council and the Academic Council under this Act shall be made according to the system of proportional representation by means of a single transferable vote and in such manner as may be prescribed by the Statutes.

Vacating of office.

57. (*1*) Any member of any authority or body of the University may resign his office by letter addressed to the Registrar.

(*2*) Any member of any authority or body of the University shall cease to be a member on his being convicted by a Court of Law, of an offence which involves moral turpitude.

Filling of casual vacancies.

58. When any vacancy occurs in the office of a member (other than an *ex-officio* member) of any authority or other body of the University before the expiry of the term of office of such member, the vacancy shall be filled up, as soon as conveniently may be, by the election, nomination, appointment or co-option, as the case may be, of a member who shall hold office so long only as the member in whose place he has been elected, nominated, appointed or co-opted, would have held it, if the vacancy had not occurred :

Provided that, if the vacancy be of an elected member of the Court and occurs within six months preceding the date on which the term of office of such member expires, the vacancy shall not be filled.

Proceedings not invalidated by vacancies.

59. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of any vacancy in its membership.

Disputes as to constitution of University authority or body.

60. If any question arises regarding the interpretation of any provision of this Act, or of any Statute, Ordinance, Regulation or Rule, or as to whether a person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, who shall, after taking such advice as he deems necessary, decide the question and his decision shall be final.

Protection of acts and orders.

61. All acts and orders in good faith done and passed by the University or any of its authorities, bodies or officers shall be final and no suit shall be instituted against or damage claimed from the University or its authorities, bodies or officers for anything purporting to be done in pursuance of the Act and the Statutes, Ordinances, Regulations and Rules framed thereunder.

CHAPTER XII.

TRANSITORY PROVISIONS.

Completion of courses of students in colleges affiliated to the Bombay University.

62. Notwithstanding anything contained in this Act, or the Statutes, Ordinances and Regulations made thereunder, any student of a college situate within the University area and affiliated to the University of Bombay who immediately before the date on which section 5 came into force was studying or was eligible for any examination of the University of Bombay shall be permitted to complete his course in preparation therefor, and the University shall provide for such period and in such manner as may be prescribed by the Statutes for the instruction, teaching, training and examination of such students in accordance with the course of studies of the University of Bombay.

Appointment of first Vice-Chancellor.

63. Notwithstanding anything contained in section 11, the first Vice-Chancellor shall be an honorary officer who shall be appointed by the Provincial Government as soon as practicable after the passing of this Act, for a period not exceeding three years and on such conditions as the Provincial Government thinks fit.

64. Notwithstanding anything contained in section 13, the first Registrar shall be appointed by the Provincial Government as soon as practicable after the passing of this Act for a period not exceeding three years and on such conditions as the Provincial Government thinks fit. Appointment of firs Registrar.

65. (*1*) It shall be the duty of the first Vice-Chancellor— Transitory powers of the first Vice-Chancellor.

(*a*) to give recognition to institutions, if any, as far as possible consistently with the provisions of section 35, and

(*b*) to make arrangements for constituting the Court, the Executive Council, the Academic Council and other authorities of the University,

within six months after the date of his appointment or such longer period not exceeding one year as the Provincial Government may by notification in the *Official Gazette* direct.

(*2*) The first Vice-Chancellor shall with the assistance of the Advisory Committee consisting of not more than fifteen members nominated by the Provincial Government—

(*a*) subject to the provisions of the Act and the approval of the Chancellor,—

(*i*) make provisional Statutes necessary for constituting the aforesaid authorities and regulating the procedure at their meetings and the transaction of their business,

(*ii*) draw up any rules that may be necessary for regulating the method of election to the aforesaid authorities,

(*b*) frame the first Statutes, Ordinances and Regulations under this Act and submit them for confirmation to the respective authorities when they commence to exercise their functions.

(*3*) The authorities constituted under sub-section (*1*) shall commence to exercise their functions on such date or dates as the Provincial Government may by notification in the *Official Gazette* direct.

(*4*) The Statutes, Ordinances and Regulations framed by the first Vice-Chancellor shall when confirmed by the respective authorities be published in the *Official Gazette*.

66. (*1*) At any time after the passing of this Act until such time as the authorities of the University shall commence to exercise their functions— First appointment of the officers and teachers of the University.

(*a*) any officer of the University may be appointed by the Vice-Chancellor with the previous sanction of the Chancellor,

(*b*) teachers of the University may be appointed by the Chancellor after considering the recommendations of an Advisory Committee consisting of the Vice-Chancellor, the Director of Public Instruction and such other person or persons, if any, as the Chancellor thinks fit to associate with them.

(*2*) Any appointment made under sub-section (*1*) shall be for such period not exceeding three years and on such conditions as the appointing authority thinks fit :

Provided that no such appointment shall be made until financial provision has been made therefor.

Extra-ordinary powers of the first Vice-Chancellor.

67. The Vice-Chancellor appointed under section 63 shall have powers until the Executive Council commences to exercise its functions—

(*a*) with the previous approval of the Chancellor to make additional statutes to provide for any matter not provided for by the first Statutes,

(*b*) to constitute provisional authorities and bodies and on their recommendations to make rules providing for the conduct of the work of the University,

(*c*) subject to the control of the Provincial Government to make such financial arrangements as may be necessary to enable this Act or any part thereof to be brought into force,

(*d*) with the sanction of the Chancellor to make for a period not exceeding three years such appointments as may be necessary to enable this Act or any part thereof to be brought into force,

(*e*) to appoint any Committee as he may think fit, to discharge such of his functions as he may direct, and

(*f*) generally to exercise all or any of the powers conferred on the Executive Council by or under the provisions of this Act.

Removal by Provincial Government of difficulties at the commencement of the Act.

68. If any difficulty arises as to the first constitution or re-constitution of any authority of the University after the coming into force of this Act or otherwise in first giving effect to the provisions of this Act, the Provincial Government, as occasion may require, may by order do anything which appears to it necessary for the purpose of removing the difficulty.

SCHEDULE I.

[*See* section 2 (*8*).]

Areas comprised in—

I. Poona City.

II. *The following Villages in Poona City Taluka :—*

1. Bhamburda (Shivaji Nagar).
2. Aundh.
3. Bopodi.
4. Yeravda.
5. Ghorpadi.
6. Wanavadi.
7. Nundhava.
8. Parvati.
9. Yerandavne.

III. *The following Villages in Mulshi Petha :—*

1. Thergaon.
2. Tathavade.
3. Hinjawadi.
4. Man.
5. Wakad.
6. Sus.
7. Mahalunga.
8. Nanda.
9. Bavadhan Bk.
10. Bavadhan Kd.
11. Bhugaon.
12. Bhukum.
13. Lavale.
14. Chande.

IV. *The following Villages in Haveli Taluka :—*

1. Bhosari.
2. Dapodi.
3. Charholi Bk.
4. Dighi.
5. Kalas.
6. Bopkhel.
7. Vadgaon Shinde.
8. Lohagaon.
9. Dhanori.
10. Wagholi.
11. Wadgaon Sheri.
12. Kharadi.
13. Manjari Kd.
14. Manjari Bk.
15. Hadapsar.
16. Phursungi.
17. Kondhave Kd.
18. Kondhave Bk.
19. Mahamad Wadi.
20. Urali Devachi.
21. Undari.
22. Pisoli.
23. Katraj.
24. Ambegaon Kd.
25. Ambegaon Bk.
26. Dhankavadi.
27. Hingne Kd.
28. Hingne Bk.
29. Kothrud.
30. Vadgaon Bk.
31. Vadgaon Kd.
32. Varja.
33. Nanded.
34. Narhe.
35. Dhayari.
36. Kirkatwadi.
37. Nandoshi.
38. Gorha Bk.
39. Donja.
40. Khadakwasla.
41. Kopra.
42. Ahira.
43. Kondhava Dhavda.
44. Shivane.
45. Pashan.
46. Baner.
47. Pimple Nilakh.
48. Balewadi.
49. Pimple Saudagar.
50. Pimple Gurav.
51. Pimpri Vagheri.
52. Rahatni.
53. Chinchwad.
54. Akurdi.
55. Sangavi.

V. Cantonment of Poona.

VI. Cantonment of Kirkee.

SCHEDULE II.

[*See* section 2 (*16*).]

1. Poona District including the area specified in Schedule I.
2. Satara District.
3. Ahmednagar District.
4. Sholapur District.
5. Nasik District.
6. Ratnagiri District.
7. Kolaba District.
8. Thana District.
9. East Khandesh District.
10. West Khandesh District.

THE BOMBAY REFUGEES ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Interpretation.
3. Registration Centres.
4. Registration of refugees.
5. Certificate of registration.
6. Change of address.
7. Power of Provincial Government to order refugees to reside in particular camps, places or areas and to remove themselves from such camps, places or areas.
8. Power of Provincial Government to remove refugees from any camp, place or area in the Province of Bombay.
9. Orders for vaccination and inoculation of refugees.
10. Penalties.
11. Registering, authorities and persons authorised to remove refugees to be public servants.
12. Protection of action taken under Act.
13. Certain offences to be cognizable.
14. Delegation of functions.
15. Rules.
16. Power of exemption.

FIRST SCHEDULE.

SECOND SCHEDULE.

BOMBAY ACT No. XXII OF 1948.[1]

[THE BOMBAY REFUGEES ACT, 1948.]

[*29th March 1948.*]

Amended by Bom. 66 of 1948.

An Act to provide for compulsory registration and movement of refugees and for certain other purposes.

WHEREAS [2][it is expedient to provide for the registration and to regulate the movement of refugees with a view to facilitating their relief and rehabilitation and to securing public health, sanitation and safety and for certain other purposes herein specified]; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Bombay Refugees Act, 1948.

(*2*) It extends to the whole of the Province of Bombay.

Interpretation.

2. In this Act, "refugee" means any person who has since the first day of August 1947, entered the Province of Bombay, having left his place of residence elsewhere on account of civil disturbances in that place or the fear of such disturbances.

Registration Centres.

3. In Greater Bombay the Commissioner of Police for the Greater Bombay and elsewhere the District Magistrate shall, as soon as may be, by a general or special order, establish in respect of—

(*a*) each camp in which refugees are being accommodated, and

(*b*) each particular area specified by him, a registration centre for the registration of refugees, and shall appoint a person or a committee of persons to be the registering authority in charge of each such centre :

[3][Provided that the Provincial Government may, from time to time by notification in the *Official Gazette*, direct that the functions of the Commissioner of Police or the District Magistrate under this section shall be performed by any other officer specified in such notification.]

Registration of refugees.

4. (*1*) Every refugee for the time being in the Province of Bombay shall, within fifteen days from the coming into operation of this Act or within seven days from the date of his arrival in the Province, whichever is later, register himself at the registration centre of the camp in which he is being accommodated or if he is being accommodated or is residing elsewhere than in a camp for which a registration centre has been established, at the registration centre of the area in which he is being accommodated or is residing :

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 115.
[2] This portion was substituted for the original by Bom. 66 of 1948, s. 2.
[3] This proviso was added, *ibid.*, s. 3.

Provided that a refugee who is the head of a family shall be responsible for the registration of members of his family for the time being with him :

Provided further that where a refugee is a female, a minor, a lunatic, an idiot or a person incapable by reason of being sick or infirm of attending at the registration centre, the person who may for the time being be looking after such refugee shall be responsible for his registration.

(*2*) A refugee registering under sub-section (*1*) or a person responsible for registration of a refugee under the said sub-section (*1*) shall, to the best of his ability, correctly fill up, or cause so to be filled up, the form set out in the First Schedule.

Certificate of registration.

5. The registering authority shall issue to every refugee registering under this Act a certificate of registration in the form set out in the Second Schedule.

Change of address.

6. (*1*) If a refugee ceases to reside at the address recorded in the certificate of registration issued under section 5, he shall, within seven days of any such change of address, intimate his new address to the registering authority by which the certificate of registration was issued and if the new address is within the jurisdiction of another registering authority, to that other registering authority, and shall at the same time forward the certificate of registration to that other registering authority in order that the new address may be entered therein :

Provided that where a refugee is not the head of the family, the head of the family, and where a refugee is a female, a minor, a lunatic, an idiot or a sick or infirm person, the person who may for the time being be looking after such refugee shall intimate the change of address and forward the certificate of registration to the registering authority as aforesaid.

(*2*) Nothing in sub-section (*1*) shall apply where the change of address recorded in the certificate of registration is due to a temporary absence not intended to exceed [1][three months] in duration.

Power of Provincial Government to order refugees to reside in particular camps, places or areas and to remove themselves from such camps, places or areas.

7. The Provincial Government may, by order in writing, direct any refugee or class of refugees to reside in any camp or place or within any area or to leave any camp or place or area and go to and reside in any other camp or place or area in the Province of Bombay within a period specified in such order.

Power of Provincial Government to remove refugees from any camp, place or area in the Province of Bombay.

8. If any refugee fails to leave any camp, place or area, in accordance with an order made under section 7, he may be removed by any police officer or any person authorised by the Provincial Government in this behalf from such camp, place or area in such manner as may be specifid by the Provincial Government by a general or special order.

Nothing in this section shall affect the liability of such refugee to the penalty provided in section 10.

[1]These words were substituted for the words " thirty days " by Bom. 66 of 1948, s. 4.

9. (*1*) An officer authorised by the Provincial Government in this behalf may, by order in writing, require a refugee or any person responsible for the registration of a refugee under sub-section (*1*) of section 4, to get himself or the refugee for whose registration he is so responsible vaccinated against small-pox or inoculated against plague, cholera or typhoid within fifteen days of such order, except where a certificate is produced from a registered medical practitioner or from a vaccinator or inoculator duly authorised by the Provincial Government in that behalf that such refugee has been vaccinated or revaccinated or inoculated, as the case may be, by him within six months immediately preceding the date of the order. Orders of vaccination and inoculation of refugees.

(*2*) Nothing in this section shall affect the liability of any person to get himself or any other person vaccinated or inoculated under any law for the time being in force.

[1][**10.** (*1*) Whoever refuses or without lawful excuse neglects to comply with the requirements of section 4 or 6 shall, on conviction, be punished with fine which may extend to two hundred rupees. Penalties.

(*2*) Whoever gives particulars in filling the form under sub-section (*2*) of section 4 which are false and which he either knows or believes to be false or whoever contravenes any other provisions of this Act or any rule made thereunder or any order made in pursuance of this Act shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.]

11. Every person or member of a committee appointed as a registering authority under section 3 and every person authorised by the Provincial Government to remove a refugee under section 8 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Registering authorities and persons authorised to remove refugees to be public servants.

XLV of 1860.

12. No suit, prosecution or other legal proceeding shall lie against any person in respect of anything in good faith done or intended to be done under this Act or any rule or order made thereunder. Protection of action taken under Act.

[2][**13.** All offences under this Act except offences under sub-section (*1*) of section 10 shall be cognizable.] Certain offences to be cognizable.

14. The Provincial Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act, shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the Provincial Government below the rank of a Collector, as may be so specified. Delegation of functions.

15. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the preparation and maintenance of registers of refugees registered under section 4;

(*ii*) the manner of service on refugees of orders made under this Act; and

(*iii*) the vaccination and inoculation of refugees under section 9.

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[1] This section was substituted for the original by Bom. 66 of 1948, s. 5.
[2] This section was substituted for the original by Bom. 66 of 1948, s. 6.

Power of exemption.

[1][16. (*1*) The Provincial Government may, by notification in the *Official Gazette*, direct that refugees from any particular area or place or any class of refugees shall be exempt from all or any of the provisions of this Act or any requirements thereof.

(*2*) An officer authorised in this behalf by the Provincial Government may, for reasons to be recorded in writing, order that any refugee shall be exempt from all or any of the provisions of this Act or any requirements thereof.]

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[2][FIRST SCHEDULE.

[*See* section 4 (*2*).]

Form of Registration.

GOVERNMENT OF BOMBAY.

REGISTRATION OF REFUGEES.

(1) Name of the applicant in full (in capital letters with surname first).

(2) Age ... ...

(3) Sex ... ...

(4) Whether married or single ...

(5) Names of dependents at present in the Province of Bombay, their relationship, ages and sex.

(6) Names of dependents left behind, if any, in the place which he has left, their relationship, ages and sex.

(7) Address prior to evacuation: Village, Tehsil, District (in detail).

(8) Present address (Building, Floor, Street, Road, etc.

(9) Details of identity documents and other papers relating to evacuation, if any, with the applicant.

(10) Period of residence at place which he has left.

(11) Date and place of arrival in the Province of Bombay.

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[1] This section was inserted by Bom. 66 of 1948, s. 7.
[2] This schedule was substituted for the original, *ibid.*, s. 8.

(12) Any moveable or immovable property lost or left at the place which he has left or elsewhere and its value.

(13) Whether any property sold prior to evacuation. If so, its details and the price at which it was sold.

(14) Academical and technical qualifications.

(15) Occupation, profession or trade and monthly income prior to evacuation.

(16) Aptitude for any occupation, profession or trade other than that followed prior to evacuation.

(17) Details of land taken, if any, for settling either in the Province of Bombay or elsewhere in the Indian Union.

(18) Means of maintenance at present.

(19) Resources possessed at present.

(20) Details of facilities or assistance received, if any, at present either through official or non-official sources.

(21) Whether any facilities or assistance required for rehabilitation. If so, their details.

(22) Whether he wishes to stay in the Province of Bombay. If so, for how long.

(23) Whether willing to go outside the Province of Bombay. If so, the place he wishes to proceed to.

Remarks—

Signature/Left hand thumb impression and/or Photograph of the applicant, *if available.*

Place 194

Registering Authority.]

SECOND SCHEDULE.

(*See* section 5.)

Form of Certificate of Registration.

GOVERNMENT OF BOMBAY.

POLITICAL AND SERVICES DEPARTMENT.

Serial Number .....

Reception Camp Number .....

Registration Office Number .....

Name of refugee in full .....

Address before evacuation .....

Present address .....

Name of head of family .....

[1]* * * .....

Signature or finger print of refugee .....

Office of registration .....

Registered by .....

Date .....

Place 194 .

Registering Authority.

[1]The "entry identification marks" was deleted by Bom. 66 of 1948, s. 9.

THE BOMBAY BUILDING (CONTROL ON ERECTION) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Appointment of Controllers of Buildings.
4. Application for permission to erect or re-erect building or to continue to erect or re-erect building.
5. Revocation or modification of permission by Provincial Government.
6. Right of appeal.
7. Bar of compensation.
8. Saving of other enactments.
9. Penalties.
10. Offence by companies etc.
11. Power of entry, etc.
12. Protection of persons acting under this Act.
13. Savings.
14. Power to make rules.

14A. Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.

15. Repeal.

SCHEDULE.

BOMBAY ACT No. XXXI OF 1948.[1]

[THE BOMBAY BUILDING (CONTROL ON ERECTION) ACT, 1948.]

[*10th April 1948.*]

Amended by Bom. 69 of 1948.

An Act to provide for the control on erection and re-erection of buildings in the Province of Bombay.

WHEREAS with a view to providing better housing accommodation and securing economic and orderly building development, it is necessary to provide for the control on the erection and re-erection of buildings in the Province of Bombay and for certain other purposes; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Bombay Building (Control on Erection) Act, 1948.

(*2*) It extendto the areas specified in the Schedule.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, direct that it shall also extend to any other area specified in such notification. The Provincial Government may further direct in such notification that it shall apply only in respect of buildings intended to be used for such purposes as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant to the subject or context,—

(*i*) "building" means a house, out-house, stable, shed, hut and every other structure, involving use of bricks, cement, asbestos cement sheets, iron, steel or any other material which the Provincial Government may by notification in the *Official Gazette* specify.

Explanation.—Use of iron or steel by way of nails or screws or doors, window and fastenings shall not be deemed to be use of iron or steel within the meaning of this definition.

(*ii*) "Controller" means the person appointed as such under section 3 ;

(*iii*) "erection or re-erection of a building" includes any alteration to, or enlargement of, or addition to, any building; and the expression "erect or re-erect a building" shall be construed accordingly;

(*iv*) "prescribed" means prescribed by rules made under this Act ;

(*v*) "tenement" means a separate and self-contained set of rooms constructed for use for the purposes of a dwelling and forming part a building from some other part of which it is divided horizontally.

Appointment of Controllers of Buildings.

3. The Provincial Government may, by notification in the *Official Gazette*, appoint for any area one or more persons to be the Controllers of Bildings for the purposes of this Act.

Application for permission to erect or re-erect building or to continue to erect or re-erect building.

4. (*1*) Every person desiring to commence the work of erection or re-erection of a building or to continue the work of erection or re-erection of a building commenced before the date on which this Act has come into force shall make an application in writing to the Controller for permission to do so. The application shall be in such form and contain such information in respect of the building to which the application relates as may be prescribed.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 157.

(*2*) On receipt of such application the Controller, after making such enquiry as he considers necessary, shall, by order in writing either—

(*a*) grant the permission subject to such conditions, if any, as may be specified in the order; or

(*b*) refuse to grant such permission:

Provided that the Controller shall not refuse to grant such premission if he is satisfied that the erection or re-erection is of a building intended for a residential purpose and consisting of one or more tenements each with a floor area not exceeding 800 square feet.

Explanation.—For the purposes of this sub-section "floor area" does not include the area of a bath-room, lavatory, open verandah, passage or balcony or the area covered by walls.

(*3*) If at the expiration of a period of one month after an application under sub-section (*1*) has been received by the Controller no order in writting has been passed by the Controller permission shall be deemed to have been granted without the imposition of any condition.

Revocation or modification of permission by Provincial Government.

5. The Provincial Government may, at any time, make an order in writing for reasons which it considers sufficient and which shall be stated in such order, revoking the permission granted by the Controller under sub-section (*2*) of section 4 or modifying the conditions subject to which such permission was granted by him.

Right of appeal.

6. (*1*) Any person aggrieved by an order of the Controller under sub-section (*2*) of section 4 may, within thirty days from the date of the communication of such order to him, prefer an appeal to the Provincial Government.

(*2*) The order of the Provincial Government on appeal shall be final.

Bar of compensation.

7. No compensation shall be claimed by any person for any damage or loss sustained by him in consequence of—

(*a*) any order of the Controller under sub-section (*2*) of section 4; or
(*b*) any order passed by the Provincial Government under section 5 or 6; or
(*c*) anything which is in good faith done or intended to be done under this Act.

Saving of other enactments.

8. Nothing in this act shall affect the power of any authority to impose restrictions upon the erection or re erection of a building under any other enactment for the time being in force.

Penalties.

9. (*1*) No work of erection or re-erection of a building shall be commenced, continued or carried out without the permission of the Controller granted under section 4 or after such permission is revoked under section 5 or in contravention of any conditions imposed by an order under section 4, 5 or 6.

(*2*) Where any work of erection or re-erection of a building is commenced, continued or carried out in contravention of sub-section (*1*), the person at whose expense the work of erection or re-erection of the building is commenced, continued or carried out and (where he is not the same person) the person undertaking the commencement, continuance or carrying out of such work and (in either case) any architect, engineer or other person employed in an advisory or supervisory capacity in the commencement, continuance or carrying out of such work shall, on conviction, be punishable with imprisonment which may extend to three months or with fine which may extend to Rs. 1,000 or with both.

(*3*) Any court trying an offence under sub-section (*2*) may order the forfeiture to His Majesty of all materials which the court is satisfied were collected, purchased or otherwise obtained for the work of erection or re-erection.

10. Where a person committing an offence under this Act is a company, or other body corporate, or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent, or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be liable to the punishment provided for the offence. Offence by companies etc.

11. (*1*) Any person not below the rank of a Gazetted Officer authorised in this behalf by the Provincial Government by general or special order may— Power of entry, etc.

(*a*) enter and inspect any land on which he has reason to believe that the work of erection or re-erection of a building is being commenced, continued or carried out in contravention of the provisions of this Act;

(*b*) ask of any person such questions as he deems necessary for carrying out the purposes of this Act;

(*c*) ask any person at whose expense the work of erection or re-erection is commenced, continued or carried out or any person engaged in the carrying out of such work to produce or furnish such books or documents or other information being documents or information in his possession, relating to such work;

(*d*) seize any materials which he has reason to believe have been collected, purchased or otherwise obtained for the work of erection or re-erection of a building in contravention of the provisions of this Act and subject to the provisions of sub-section (*3*) of section 9 dispose of them in the prescribed manner.

(*2*) Whoever voluntarily obstructs any person authorised under sub-section (*1*) in the exercise of any powers conferred by that sub-section or refuses to answer of wilfully gives a false answer to any question asked of him or refuses to produce or furnish any books, documents or other information as required under the said sub-section shall be punishable with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

12. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Protection of persons acting under this Act.

13. Nothing in this Act shall apply to— Savings.

(*a*) alterations in a building not involving increase in the existing plinth area or roof area or in the total height of the building;

(*b*) re-erection of a dilapidated part of a building not involving re-erection of the whole building or, in the case of a storeyed building, of the whole storey;

(*c*) machinery foundations, furnaces, fire-places, flues, chimneys, washing-places drainage lines, latrines, urinals, septic tanks or manholes and inspection chambers for drains;

(*d*) storage tanks or wells;

(*e*) boundary walls, compound walls and fencings;

(*f*) the erection or re-erection of a building—

(*i*) which is undertaken or carried out on behalf of the Government or a local authority or in pursuance of a contract with the Government or a local authority, or

(*ii*) the cost of which, or any part of the cost of which, the Government or a local authority has agreed to pay.

Power to make rules.

14. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules to carry into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form of application and the information to be supplied under sub-section (*1*) of section 4;

(*ii*) the manner in which persons authorized under sub-section (*1*) of section 11 shall exercise their powers and dispose of the materials seized under clause (*d*) of the said sub-section.

Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.

[1][**14A.** Notwithstanding anything contained in this Act, the Provincial Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act.]

Repeal.

15. (*1*) The Bombay Building (Control on Erection) Ordinance, 1948, is hereby repealed; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment. Bom. Ordinance No. 1 of 1948.

(*2*) Notwithstanding the repeal of the said Ordinance, any application made under sub-section (*1*) of section 4 of that Ordinance prior to the commencement of this Act shall be deemed to have been made under the corresponding provision of this Act: Bom. I of 1904.

Provided that the period of one month mentioned in sub-section (*3*) of section 4 of this Act shall be deemed to commence and run from the date on which such application was received by the Controller.

SCHEDULE.

1. The City of Bombay.
2. The Bombay Suburban District.
3. The Thana Taluka of the Thana District.
4. The Kalyan Municipal Borough.
5. The Ahmedabad Municipal Borough.
6. The Ahmedabad Cantonment.

[1] This section was inserted by Bom. 69 of 1948, s. 75 and Schedule.

THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.

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3. Amendment of heading "C" in chapter II of Act V of 1898.
4. Amendment of section 267 of Act V of 1898.
5. Amendment of section 268 of Act V of 1898.
6. Amendment of section 269 of Act V of 1898.
7. Amendment of section 274 of Act V of 1898.
8. Amendment of section 276 of Act V of 1898.
9. Amendment of section 277 of Act V of 1898.
10. Amendment of section 296 of Act V of 1898.
11. Amendment of section 305 of Act V of 1898.
12. Amendment of section 306 of Act V of 1898.
13. Amendment of heading "J" in Chapter XXIII of Act V of 1898.
14. Amendment of section 312 of Act V of 1898.
15. Amendment of section 315 of Act V of 1898.
16. Amendment of heading "K" in Chapter XXIII of Act V of 1898.
17. Amendment of heading "L" in Chapter XXIII of Act V of 1898.
18. Amendment of section 333 of Act V of 1898.
19. Amendment of sections 354 and 356 of Act V of 1898.
20. Amendment of section 373 of Act V of 1898.
21. Amendment of section 413 of Act V of 1898.
22. Amendment of section 435 of Act V of 1898.
23. Amendment of section 436 of Act V of 1898.
24. Amendment of section 437 of Act V of 1898.
25. Amendment of section 438 of Act V of 1898.
26. Amendment of section 449 of Act V of 1898.
27. Amendment of section 554 of Act V of 1898.
28. Amendment of form No. XXVIII of Schedule V to Act V of 1898.
29. Transitory provision.

BOMBAY ACT No. XXXII OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.]

[*10th April 1948.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1948. Short title and commencement.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* appoint.

V of 1898. **2.** In section 7 of the Code of Criminal Procedure, 1898 (hereinafter called the said Code),— Amendment of section 7 of Act V of 1898.

(*a*) in sub-section (*1*), the brackets and words "(excluding the presidency-towns)" shall be deleted; and

(*b*) after sub-section (*1*), the following new sub-section shall be inserted, namely:—

"(*1A*) For the purposes of this Code, Greater Bombay shall be a sessions division." Greater Bombay to be sessions division.

3. In Chapter II of the said Code, for the heading "*C—Courts and Offices outside the Presidency-towns*" the heading "*C—Court of Session for Greater Bombay and Courts and Offices outside Greater Bombay*" shall be substituted. Amendment of heading "C" in Chapter II of Act V of 1898.

4. In the marginal note of section 267 of the said Code after the words "High Court" and in section 267 of the said Code after the words "High Court" where they occur for the first time, the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 267 of Act V of 1898.

5. In section 268 of the said Code, at the beginning the words and figures "Subject to the provisions of section 267" shall be inserted. Amendment of section 268 of Act V of 1898.

6. In sub-section (*1*) of section 269 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted. Amendment of section 269 of Act V of 1898.

7. In section 274 of the said Code,— Amendment of section 274 of Act V of 1898.

(*a*) in sub-section (*1*), after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted; and

(*b*) in sub-section (*2*), for the words "before the Court" the words "before any other Court" shall be substituted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette* 1948, Part V, page 12.

Amendment of section 276 of Act V of 1898.

8. In section 276 of the said Code, in clause *thirdly* of the proviso, after the words "of such High Court" the words "or before the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 277 of Act V of 1898.

9. In sub-section (*2*) of section 277 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 296 of Act V of 1898.

10. In section 296 of the said Code, after the words "such Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 305 of Act V of 1898.

11. In the marginal note of section 305 and in sub-section (*1*) of section 305 of the said Code, after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 306 of Act V of 1898.

12. In sub-section (*1*) of section 306 of the said Code, after the word "Session" the words "other than the Court of Session for Greater Bombay" shall be inserted.

Amendment of heading "*J*" in Chapter XXIII of Act V of 1898.

13. In Chapter XXIII of the said Code, in the heading "*J*"—

(*a*) after the words "*High Court*" the words "*and the Court of Session for Greater Bombay*" shall be inserted; and

(*b*) for the words "*that Court*" the words "*such Courts*" shall be substituted.

Amendment of section 312 of Act V of 1898.

14. In section 312 of the said Code, after the word "list" the words "for the High Court and the Court of Session for Greater Bombay" shall be inserted.

Amendment of section 315 of Act V of 1898.

15. In section 315 of the said Code, for the words "in the town which is the usual place sitting of each High Court" the words "of the High Court in the town which is the usual place of sitting of such High Court and for each sessions of the Court of Session for Greater Bombay" shall be substituted.

Amendment of heading "*K*" in Chapter XXIII of Act V of 1898.

16. In Chapter XXIII of the said Code, in the heading "*K*", after the words "*Court of Session*" the words "*other than the Court of Session for Greater Bombay*" shall be inserted.

Amendment of heading "*L*" in Chapter XXIII of Act V of 1898.

17. In Chapter XXIII of the said Code, in the heading "*L*", after the words "*High Courts*" the words "*and the Court of Session for Greater Bombay*" shall be inserted.

18. In section 333 of the said Code, after the words "before a High Court" the words "or the Court of Session for Greater Bombay" shall be inserted. Amendment of section 333 of Act V of 1898.

19. In the marginal notes of sections 354 and 356, the words "outside presidency-towns" shall be deleted. Amendment of sections 354 and 356 of Act V of 1898.

20. For the marginal note to section 373 of the said Code the marginal note "Copy of finding and sentence to be sent to District Magistrate or Commissioner of Police" shall be substituted and to section 373 of the said Code, the following proviso shall be added, namely:— Amendment of section 373 of Act V of 1898.

"Provided that the Court of Session for Greater Bombay shall send such copy to the Commissioner of Police for Greater Bombay."

21. In section 413 of the said Code,— Amendment of section 413 of Act V of 1898.

(*a*) after the words "High Court" the words "or the Court of Session for Greater Bombay" shall be inserted;

(*b*) for the words "a Court of Session" where they occur for the first time the words "any other Court of Session" shall be substituted; and

(*c*) after the words "Court of Session" where they occur for the second time the words "other than that for Greater Bombay" shall be inserted.

22. In sub-section (*1*) of section 435 of the said Code, after the words "any Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 435 of Act V of 1898.

23. In section 436 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 436 of Act V of 1898.

24. In section 437 of the said Code, after the words "Sessions Judge" where they occur for the first time the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 437 of Act V of 1898.

25. In sub-section (*1*) of section 438 of the said Code, after the words "Sessions Judge" the words "other than the Sessions Judge of the Court of Session for Greater Bombay" shall be inserted. Amendment of section 438 of Act V of 1898.

26. In sub-section (*1*) of section 449 of the said Code, after clause (*c*) the following shall be inserted, namely:— Amendment of section 449 of Act V of 1898.

or,

(*d*) "a case is tried by jury in the Court of Session for Greater Bombay, which if it had been tried outside a Presidency-town, have been triable under the provisions of this Chapter,".

Amendment of section 554 of Act V of 1898.

Power of High Court of Bombay to make rules for Court of Session for Greater Bombay.

27. In section 554 of the said Code, after sub-section (*1*) the following new sub-section shall be inserted, namely :—

"(*1A*) With the previous sanction of the Provincial Government, the High Court of Judicature at Bombay may also make rules for regulating the practice and proceedings of the Court of Session for Greater Bombay."

Amendment of form No. XXVIII of Schedule V to Act V of 1898.

28. In form No. XXVIII—Charges—in Schedule V to the said Code, the brackets and words "[*when the charge is framed by a Presidency Magistrate, for* Court of Session *substitute* High Court]" shall be deleted.

Transitory provision.

29. Nothing in this Act shall affect any case, appeal or proceeding pending in the High Court on the date this Act comes into force and every such case, appeal or proceeding shall be tried, heard and disposed of as if this Act had not been passed.

THE BOMBAY LAND REQUISITION ACT, 1948.

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4. Definitions.
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6. Requisition of vacant premises.
7. Continuance of requisition.
8. Payment of compensation.
9. Release from requisition.
10. Powers of inquiry.
11. Power to take possession.
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14. Power to enter and inspect land.
15. Delegation of functions.
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19. Power to make rules.
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SCHEDULE.

BOMBAY ACT No. XXXIII OF 1948.[1]

[THE BOMBAY LAND REQUISITION ACT, 1948.]

[*11th April 1948.*]

An Act to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes.

WHEREAS the Governor-General, in exercise of the powers conferred on him by section 104 of the Government of India Act, 1935, has, by the Government of India, Ministry of Law, Notification No. F. 311/47-C & G, dated the 21st October 1947, empowered all Provincial Legislatures to enact laws with respect to the requisition of land;

26 Geo. 5, Ch. 2.

AND WHEREAS it is expedient to provide for the requisition of land, for the continuance of requisition of land and for certain other purposes; It is hereby enacted as follows:—

1. This Act may be called the Bombay Land Requisition Act, 1948. Short title.

2. (*1*) This Act shall extend to the areas specified in the Schedule hereto annexed and shall continue to extend to any such area notwithstanding that the area ceases to be of the description therein specified. Extent.

(*2*) The Provincial Government may, by notification in the *Official Gazette*, extend any or all of the provisions of this Act to any other area and on such date as may be specified in the notification.

(*3*) The Provincial Government may, at any time by like notification, direct that any or all of the provisions of this Act shall cease to extend to any area and on such date as may be specified in the notification; and on that date the said provisions shall cease to be in force in such area.

3. (*1*) This Act shall remain in force up to and inclusive of the 31st day of March 1950: Duration.

Provided that the Provincial Government may, by notification in the *Official Gazette*, direct that it shall remain in force for a further period not exceeding two years.

(*2*) Section 7 of the Bombay General Clauses Act, 1904, shall apply upon the expiry of this Act or upon this Act or any provision thereof ceasing to be in force in any area, as if it had then been repealed by a Bombay Act.

Bom. I of 1904.

4. In this Act, unless there is anything repugnant to the subject or context,— Definitions.

(*1*) "land" includes benefits to arise out of land, and buildings and all things attached to the earth or permanently fastened to the buildings or things attached to the earth;

(*2*) "landlord" means any person who is, for the time being, receiving, or entitled to receive, rent in respect of any premises whether on his own account or on account, or on behalf, or for the benefit, of any other person, or as

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 216.

a trustee, guardian, or receiver for any other person or who would so receive the rent or be entitled to receive the rent if the premises were let to a tenant; and includes any person, not being a tenant, who from time to time derives title under a landlord; and further includes in respect of his sub-tenant a tenant who has sublet any premises;

(*3*) "premises" means any building or part of a building let or intended to be let separately including—

(*i*) the garden, grounds, garages and out-houses, if any, appurtenant to such building or part of a building,

(*ii*) any fittings affixed to such building or part of a building for the more beneficial enjoyment thereof,
but does not include a room or other accommodation in a hotel or lodging house;

(*4*) "prescribed" means prescribed by rules made under this Act;

(*5*) "to requisition" means in relation to any land to take possession of the land or to require the land to be placed at the disposal of the Provincial Government.

Requisition of land.

5. (*1*) If in the opinion of the Provincial Government it is necessary or expedient so to do, the Provincial Government may by order in writing requisition any land for any purpose:

Provided that no building or part thereof wherein the owner, the landlord or the tenant, as the case may be, has actually resided for a continuous period of six months immediately preceding the date of the order shall be requisitioned under this section.

(*2*) Where any building or part thereof is to be requisitioned under sub-section(*1*), the Provincial Government shall make such enquiry as it deems fit and make a declaration in the order of requisition that the owner, the landlord or the tenant, as the case may be, has not actually resided therein for a continous period of six months immediately preceding the date of the order and such declaration shall be conclusive evidence that the owner, landlord or tenant has not so resided.

Requisition of vacant premises.

6. (*1*) If any premises situate in an area specified by the Provincial Government by notification in the *Official Gazette* are vacant on the date of such notification and whenever any such premises are vacant or become vacant after such date by reason of the landlord, the tenant, or the sub-tenant, as the case may be, ceasing to occupy the premises or by reason of the release of the premises from requisition or by reason of the premises being newly erected or reconstructed or for any other reason, the landlord of such premises shall give intimation thereof in the prescribed form to an officer authorised in this behalf by the Provincial Government.

(*2*) The intimation shall be given by post within one month of the date of the notification in the case of premises which are vacant on such date and in other cases within seven days of the premises becoming vacant or becoming available for occupation.

(*3*) A landlord shall not, without the permission of the Provincial Government, let, occupy, or permit to be occupied such premises before giving the intimation and for a period of one month from the date on which the intimation is received.

(*4*) Whether or not an intimation under sub-section (*1*) is given and notwithstanding anything contained in section 5, the Provincial Government may, by order in writing—

(*a*) requisition the premises and may use or deal with the premises in such manner as may appear to it to be expedient; or

(*b*) require the landlord to let the premises to specified persons or class of persons or in specified circumstances :

Provided that where an order is to be made under clause (*a*) or (*b*) requisitioning or requiring to let premises in respect of which no intimation is given by the landlord, the Provincial Government shall make such inqiry as it deems fit and make a declaration in the order that the premises were vacant or had become vacant, on or after the date referred to in sub-section (*1*) and such declaration shall be conclusive evidence that the premises were or had so become vacant :

Provided further that no order under clause (*b*) shall be made without hearing the landlord if the landlord resides in the building of which the premises form a part.

(*5*) Any landlord who fails to give such intimation within the period specified in sub-section (*2*) shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both and any landlord who lets, occupies or permits to be occupied the premises in contravention of the provisions of sub-section (*3*), shall, on conviction, be punished with imprisonment for a term which may extend to one year and shall also be punished with fine.

Explanation.—For the purposes of this section,—

(*a*) premises which are in the occupation of the landlord, the tenant or the sub tenant, as the case may be, shall be deemed to be or become vacant when such landlord ceases to be in occupation or when such tenant or sub-tenant ceases to be in occupation upon termination of his tenancy, eviction, assignment, or transfer in any other manner of his interest in the premises or otherwise, notwithstanding any instrument or occupation by any other person prior to the date when such landlord, tenant or sub-tenant so ceases to be in occupation ;

(*b*) premises newly erected or re-constructed shall be deemed to be or become vacant until they are first occupied after such erection or reconstruction.

XVII of 1947. **7.** (*1*) Notwithstanding anything contained in the Requisitioned Land (Continuance of Powers) Act, 1947, the Provincial Government may, by order in writing, direct that any land which was continued under requisition under the said Act, shall continue to be subject to requisition under this Act when it is released from requisition under the said Act or ceases to be subject to requisition for any reason ; and the Provincial Government may use or deal with the land so continued to be subject to requisition in such manner as may appear to it to be expedient. Continuance of requisition.

(*2*) In respect of the continued subjection of the land to requisition under sub-section (*1*) compensation shall be determined and paid in accordance with the provisions of this Act and of the rules made thereunder :

Provided that all agreements and awards made in relation to the land in respect of the payment of compensation for the period before it was continued to be subject to requisition under sub-section (*1*) shall continue to be in force and shall apply to the payment of compensation for the period of requisition under this Act.

Payment of compensation.

8. (*1*) When any land is requisitioned or is continued to be subject to requisition under this Act, there shall be paid, subject to the provisions of section 7, compensation to persons having interest in such land the amount of which shall be determined by an officer authorised in this behalf by the Provincial Government who shall hold an inquiry in the manner prescribed. The officer shall determine such amount of compensation as he deems just having regard to all the circumstances of the case ; and in particular he shall be guided by the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894, in so far as they can be made applicable. I of 1894.

(*2*) Where there are several persons interested in the land, the officer shall decide the dispute, if any, as to the apportionment of the amount of compensation or any part thereof or as to the persons to whom the same or any part thereof is payable.

(*3*) An appeal shall lie against the decision of the officer under sub-section (*1*) or (*2*), except in cases where the total amount of compensation in respect of the land does not exceed an amount prescribed in this behalf by the Provincial Government,—

(*a*) in Greater Bombay, to the High Court, and

(*b*) elsewhere, to the District Court.

Such appeal shall be made within a period of sixty days from the date of the decision.

(*4*) No further appeal shall lie against any decision in appeal under sub-section (*3*).

Release from requisition.

9. (*1*) The Provincial Government may, at any time, release from requisition any land requisitioned or continued to be subject to requisition under this Act.

(*2*) (*a*) Upon such release the land shall be restored as far as possible in the same condition in which it was on the date on which the Provincial Government was put in possession thereof, and the Provincial Government shall pay compensation for deterioration, if any, caused to the land otherwise than by reasonable wear and tear or irresistible force :

Provided that nothing in this sub-section shall apply to any structures, trees or crops standing on the land on the date on which the Provincial Government took possession thereof and in respect of which compensation has been paid.

(*b*) The officer authorised in this behalf by the Provincial Government shall determine such amount of compensation as he deems just and his decision, subject to an appeal to the Provincial Government, shall be final. Sich appeal shall be made within a period of thirty days from the date of the decision.

(*3*) When any land is to be released from requisition, the Provincial Government may, after making such inquiry, if any, as it deems fit, specify by order in writing the person to whom possession of the land shall be given.

(*4*) The delivery of possession of the land to the person specified in an order made under sub-section (*3*) shall be a full discharge of the Provincial Government from all liability in respect of such delivery, but shall not prejudice any rights in respect of the land which any other person may be entitled by due process of law to enforce against the person to whom possession of the land is so delivered.

(*5*) Where the person to whom possession of any requisitioned land is to be given cannot be found and has no agent or other person empowered to accept delivery

on his behalf, the Provincial Government shall cause a notice declaring that the land is released from requisition to be affixed on some conspicuous part of the land and shall publish the notice in the *Official Gazette*.

(*6*) When a notice referred to in sub-section (*5*) is published in the *Official Gazette*, the land specified in such notice shall cease to be subject to requisition on and from the date of such publication and be deemed to have been delivered to the person entitled to possession thereof ; and the Provincial Government shall not be liable for any compensation or other claim in respect of the land for any period after the said date.

(*7*) For the purpose of releasing any land from requisition ; the Provincial Government may, by order, direct the person to whom the Provincial Government had given possession of such land and other person, if any, in occupation of such land to deliver possession thereof to the officer authorised in this behalf by the Provincial Government.

10. For the purposes of holding an inquiry under section 8 the authorised officer shall have the same powers as are vested in civil courts in respect of— Powers of inquiry.

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath,

(*c*) compelling the production of documents, and

(*d*) issuing commissions for the examination of witnesses.

11. (*1*) Any officer authorised in this behalf by the Provincial Government by a general or special order may take possession of any land in respect of which an order has been made under section 5 or 6 or sub-section (*7*) of section 9 and may take or cause to be taken such steps and use or cause to be used such force as may, in the opinion of such officer, be reasonably necessary for taking possession of such land. Power to take possession.

(*2*) The Provincial Government may, after giving 15 clear days' notice to the person from whom possession of the land has been taken under sub-section (*1*), remove or cause to be removed or dispose of by public auction any property remaining on such land.

(*3*) Where property is sold under sub-section (*2*), the sale proceeds shall, after deducting the expense of sale, be paid to such person or persons who may appear to the Provincial Government to be entitled to the same.

12. (*1*) Any officer authorised in this behalf by the Provincial Government by a general or special order may, with a view to carrying out the purposes of this Act, by order require any person to furnish to him such information in such person's possession relating to any land which is requisitioned or is continued under requisition or is intended to be requisitioned or continued under requisition. Power to obtain information.

XLV of 1860. (*2*) Every person required to furnish such information as is referred to in sub-section (*1*) shall be deemed to be legally bound to do so within the meaning of sections 176 and 177 of the Indian Penal Code.

Publication and service of orders.

13. (*1*) Every order made under section 5, 6, 7, sub-section (*7*) of section 9 or section 12 shall—

(*a*) if it is an order of a general nature or affecting a class of persons, be published in the manner prescribed by rules made in this behalf;

(*b*) if it is an order affecting an individual, corporation, or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; V of 1908.

(*c*) if it is an order affecting an individual person other than a corporation or firm, be served on the person—

(*i*) personally, by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(*2*) Where a question arises whether a person was duly informed of an order made in pursuance of section 5, 6, 7, sub-section (*7*) of section 9 or section 12 compliance with the requirements of sub-section (*1*) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

Power to enter and inspect land.

14. Without prejudice to any powers otherwise conferred by this Act, any officer or person empowered in this behalf by the Provincial Government by general or special order may enter and inspect any land for the purpose of determining whether, and, if so, in what manner, an order under this Act should be made in relation to such land, or with a view to securing compliance with any order made under this Act.

Delegation of functions.

15. The Provincial Government may, by order notified in the *Official Gazette*, direct that any power conferred or any duty imposed on it by this Act shall, in such circumstances and under such conditions, if any, as may be specified in the direction, be exercised or discharged by such officer, not being in the opinion of the Provincial Government below the rank of a Collector, as may be so specified.

Exemption.

16. The Provincial Government may by rules exempt any land from the provisions of section 5 or 6 or both on such terms and conditions as may be specified in the said rules.

Protection of action taken under Act.

17. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Act or any order made thereunder.

(*2*) Save as otherwise expressly provided under this Act no suit or other legal proceeding shall lie against the Provincial Government for any damage caused or likely to be caused by anything in good faith done or intended to be done under this Act or any order made thereunder.

Officers to be deemed public servants.

18. Every officer authorised or empowered by the Provincial Government to exercise any power or to perform any duty under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

19. (*1*) The Provincial Government may by notification in the *Official Gazette* make rules to carry into effect the purposes of this Act. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*i*) the form in which intimation shall be given under sub-section (*1*) of section 6;

(*ii*) the manner of holding an inquiry under sub-section(*1*), and the amount of compensation to be prescribed under sub-section (*3*), of section 8;

(*iii*) levy of court-fees in respect of appeals under sections 8 and 9;

(*iv*) exemption of any land from the provisions of section 5 or 6 or both and the terms and conditions on which the land shall be exempted;

(*v*) any other matter which under this Act is to be or may be prescribed.

Bom. Ordinance No. V of 1947. **20.** (*1*) The Bombay Land Requisition Ordinance, 1947, is hereby repealed; and it is hereby declared that the provisions of sections 7 and 25 of the Bombay General Clauses Act, 1904, shall apply to the repeal as if that Ordinance were an enactment. Repeal.

Bom. I of 1904. (*2*) Notwithstanding the repeal of the said Ordinance and anything contained in this Act,—

(*i*) any intimation given under sub-section (*1*) of section 5 of that Ordinance within a period of seven days prior to the commencement of this Act shall be deemed to have been given under the corresponding provision of this Act;

(*ii*) any order made under the said Ordinance requisitioning any land shall be deemed to be made under this Act;

(*iii*) any land requisitioned or continued to be subject to requisition under the said Ordinance shall be deemed to be requisitioned or continued to be subject to requisition under this Act.

SCHEDULE.

1. City of Bombay.
2. Bombay Suburban District.
3. Thana District.
4. Ahmedabad District.
5. Surat District.
6. Nasik District.
7. Poona District.
8. Sholapur District.
9. Ahmednagar District.
10. Belgaum District.
11. Dharwar District.

THE BOMBAY CITY CIVIL COURT ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Constitution of City Court.
4. Power of Provincial Government to enhance jurisdiction of City Court.
5. Subordination to and superintendence by High Court.
6. Appointment of Judges.
7. Powers of Judges when City Court consists of more than one Judge.
8. Registrar.
9. Questions arising in suits, etc. under Act to be dealt with according to law administered by High Court.
10. Fees for process.
11. Repayment of institution fee under certain circumstances.
12. High Court jurisdiction barred except in certain cases.
13. Costs to be disallowed when plaintiff sues in High Court instead of in City Court.
14. Allowance for fees paid in City Court in cases removed to High Court.
15. Appeals and limitation.
16. Seal of City Court.
17. Holidays and vacations.
18. Transfer of suits pending in High Court.

BOMBAY ACT No. XL OF 1948.[1]

[THE BOMBAY CITY CIVIL COURT ACT, 1948.]

[*10th May 1948.*]

An Act to establish an additional Civil Court for Greater Bombay.

WHEREAS it is expedient to establish an additional Civil Court for the Greater Bombay; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bombay City Civil Court Act, 1948. Short title and commencement.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "City Court" means the Court established under section 3;

(*2*) "High Court" means the High Court of Judicature at Bombay;

(*3*) "institution fee" means the court fee payable in respect of the plaint or application by which a suit or proceeding is instituted;

(*4*) "Small Cause Court" means the Court of Small Causes of Bombay;

(*5*) "special law" means a law applicable to a particular subject.

3. The Provincial Government may, by notification in the *Official Gazette*, establish for the Greater Bombay a court, to be called the Bombay City Civil Court. Notwithstanding anything contained in any law, such court shall have jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature not exceeding ten thousand rupees in value, and arising within the Greater Bombay, except suits or proceedings which are cognizable— Constitution of City Court.

(*a*) by the High Court as a Court of Admiralty or Vice-Admiralty or as a Colonial Court of Admiralty, or as a Court having testamentary, intestate or matrimonial jurisdiction, or

(*b*) by the High Court for the relief of insolvent debtors, or

(*c*) by the High Court under any special law other than the Letters Patent, or

(*d*) by the Small Cause Court:

Provided that the Provincial Government may, from time to time, after consultation with the High Court, by a like notification extend the jurisdiction of the City Court to any suits or proceedings of the nature specified in clauses (*a*) and (*b*).

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 7.

Power of Provincial Government to enhance jurisdiction of City Court.

4. Subject to the exceptions specified in section 3, the Provincial Government may, by notification in the *Official Gazette*, invest the City Court with jurisdiction to receive, try and dispose of all suits and other proceedings of a civil nature arising within the Greater Bombay and of such value not exceeding tewnty-five thousand rupees as may be specified in the notification.

Sub-ordination to and superintendence by High Court.

5. The City Court shall be deemed to be a court subordinate to and subject to the superintendence of the High Court within the meaning of the Letters Patent of the High Court and of the Code of Civil Procedure, 1908. V of 1908.

Appointment of Judges.

6. The Provincial Government may, by notification in the *Official Gazette*, appoint as many persons as it thinks fit to be Judges of the City Court.

Powers of Judges when City Court consists of more than one Judge.

7. When the City Court consists of more than one Judge—

(*a*) each of the Judges may exercise all or any of the powers conferred on the Court by this Act or any other law for the time being in force;

(*b*) the Provincial Government may appoint any one of the Judges to be the principal Judge;

(*c*) the principal Judge may from time to time make such arrangements as he may think fit for the distribution of the business of the court among the various Judges thereof.

Registrar.

8. (*1*) The Provincial Government may appoint an officer to be called the Registrar of the City Court. He shall be the chief ministerial officer of the court; and shall exercise such powers and discharge such duties of a ministerial nature as the Judge of the City Court, or when the court consists of more than one Judge, the principal Judge may, from time to time, by rules direct.

(*2*) The Provincial Government may, with the previous approval of the High Court, invest the Registrar with any powers of the Judge of the City Court other than powers of trying suits and proceedings.

Questions arising in suits, etc. under Act to be dealt with according to law administered by High Court.

9. Save as otherwise provided in this Act all questions which arise in suits or other proceedings under this Act in the City Court shall be dealt with and determined according to the law for the time being administered by the High Court in the exercise of its ordinary original civil jurisdiction.

Fees for process.

10. (*1*) The High Court shall, from time to time, w
Provincial Government prescribe and regulate the fees to be taken for any process issued by the City Court or by any officer of such court.

(*2*) Table of the fees so prescribed shall be published in the *Official Gazette*.

11. (*1*) When any suit in the City Court is settled by agreement of the parties before issues have been settled or any evidence recorded, half the amount of the institution fee paid by the plaintiff shall be repaid to him by the court. Repayment of institution fee under certain circumstances.

(*2*) The Provincial Government may, from time to time, by order, provide for repayment of any part of the institution fee to plaintiffs in suits disposed of under such circumstances as may be specified in the order.

12. Notwithstanding anything contained in any law, the High Court shall not have jurisdiction to try suits and proceedings congnizable by the City Court : High Court jurisdiction barred except in certain cases.

Provided that the High Court may, for any special reason, and at any stage remove for trial by itself any suit or proceeding from the City Court.

13. If in any suit instituted in the High Court the Judge who tries it is of the opinion that it ought to have been instituted in the City Court and in such suit— Costs to be disallowed when plaintiff sues in High Court instead of in City Court.

(*a*) if the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client ; or

(*b*) if the plaintiff obtains a decree for any matter of an amount or value less than the maximum amount of the pecuniary jurisdiction of the City Court, no costs shall be allowed to the plaintiff.

14. When any suit or proceeding is removed for trial to the High Court from the City Court under section 12— Allowance for fees paid in City Court in cases removed to High Court.

(*a*) it shall be heard and disposed of by the High Court in the exercise of its original civil jurisdiction and the said Court shall have all the powers and jurisdiction in respect thereof as if it had been originally instituted in such Court ;

(*b*) court fee on the scale forthe time being in force in the High Court as a court of original civil jurisdiction shall be payble in that court in respect of the suit or proceeding therein :

Provided that in the levy of any such fee which, according to the practice of the court, is credited to the Provincial Government, credit shall be given for the institution fee already paid in the City Court.

15. (*1*) An appeal shall lie to the High Court from— Appeals and limitation.

(*a*) every decree passed by the Judge of the City Court, and

V of 1908. (*b*) such orders passed by the said Judge as are specified in and to the extent provided for by section 104 of the Code of Civil Procedure, 1908.

(*2*) The period of limitation for an appeal from a decree or order of the City Court shall be thirty days from the day of such decree or order.

16. The City Court shall use a seal of such form and dimensions as may be for the time being prescribed by the Provincial Government. Seal of City Court.

Holidays and vacation.

17. (*1*) The Judge of the City Court, or when the Court consists of more than one Judge, the principal Judge, shall, at the commencement of each year, draw up a list of holidays and vacations to be observed in the court, and shall submit the same for the approval of the High Court.

(*2*) Such list, when it has received such approval, shall be published in the *Official Gazette*, and the said holidays and vacations shall be observed accordingly.

Transfer of suits pending in High Court.

18. (*1*) All suits and proceedings cognizable by the City Court and pending in the High Court, in which issues have not been settled or evidence has not been recorded on or before the date of the coming into force of this Act, shall be transferred to the City Court and shall be heard and disposed of by the City Court and the City Court shall have all the powers and jurisdiction thereof as if they had been originally instituted in that Court.

(*2*) In any suit or proceeding so transferred institution fee shall be paid, credit being given to any court fee levied in the High Court, and costs incurred in the High Court till the date of the transfer shall be assessed by the City Court in such manner as the Provincial Government may, after consultation with the High Court, determine by rules.

BOMBAY HIGH COURT LETTERS PATENTS (AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Amendment of Letters Patent of 8th December 1823.
3. Amendment of Letters Patent of 28th December 1865.

BOMBAY ACT No. XLI OF 1948.[1]

[THE BOMBAY HIGH COURT LETTERS PATENTS (AMENDMENT) ACT, 1948.]

[*4th May 1948.*]

An Act to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five.

WHEREAS it is expedient to amend the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three and to amend the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay High Court Letters Patents (Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Amendment of Letters Patent of 8th December 1823.

2. In the Letters Patent establishing the Supreme Court of Judicature at Bombay, bearing date the eighth day of December, One thousand Eight hundred and Twenty-three—

(*1*) in paragraph 21—

(*a*) after the words "Judicature at Bombay" where they occur for the first time, the words "and of the Bombay City Civil Court" shall be inserted;

(*b*) after the words "Judicature at Bombay" where they occur for the second time, the words "or to the said Bombay City Civil Court, as the case may be," shall be inserted ;

(*c*) after the word "respectively" the words "or by the Bombay City Civil Court or by any Judge of the said Court" shall be inserted ;

(*2*) in paragraph 22—

(*a*) after the words "Judicature at Bombay" where they occur for the first time, the words "or the Bombay City Civil Court" shall be inserted;

(*b*) after the words "Judicature at Bombay" where they occur for the second time, the words "or the said Bombay City Civil Court, as the case may be," shall be inserted ;

(*c*) for the word "Court" where it occurs at the end, the word "Courts" shall be substituted ;

(*3*) in paragraph 23—

(*a*) after the words "said Court" where they occur for the first time, the words "or of the said Bombay City Civil Court" shall be inserted ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 220.

(*b*) for the words "said Court" where they occur for the second time, the words "said Supreme Court of Judicature at Bombay" shall be substituted;

(*4*) to paragraph 43, the following shall be added, namely :—

"The foregoing provisions as respects the Sheriff and his duties shall, so far as may be, apply to the Court of Session for Greater Bombay."

Amendment of Letters Patent of 28th December 1865.

3. (*1*) In the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand Eight hundred and Sixty-five—

(*1*) in clause 12, for the words "in which the debt, or damage, or value of property sued for does not exceed one hundred rupees" the words "or the Bombay City Civil Court" shall be substituted;

(*2*) in clause 22—

(*a*) the words "within the local limits of its ordinary original civil jurisdiction, and also" shall be deleted;

(*b*) for the words "such limits" the words "the local limits of its ordinary original civil jurisdiction" shall be substituted.

(*2*) For the avoidance of doubt, it is hereby declared that the amendments made by clause (2) of sub-section (*1*) shall not be deemed to affect any of the powers of the High Court under the provisions, for the time being in force, of the Code of Criminal Procedure, 1898. V of 1898.

BOMBAY ACT No. XLII OF 1948.[1]

[THE COURT-FEES (BOMBAY AMENDMENT) ACT, 1948.]

[*11th May 1948.*]

An Act to amend the Court-fees Act, 1870, in its application to the Province of Bombay.

VII of 1870. WHEREAS it is expedient to amend the Court-fees Act, 1870, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Court-fees (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 22 of Act VII of 1870.

VII of 1870. 2. In the Court-fees Act, 1870, in section 22, after the words "every District Judge" the words "the Judge of the Bombay City Civil Court or, if the said Court consists of more than one Judge, the principal Judge thereof," shall be inserted.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 133.

THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Amendment of section 21 of Act XV of 1882.
3. Substitution of new section for section 22 of Act XV of 1882.
4. Amendment of section 31 of Act XV of 1882.
5. Deletion of sections 39 and 40 of Act XV of 1882.
6. Amendment of section 47 of Act XV of 1882.
7. Amendment of section 49 of Act XV of 1882.
8. Amendment of section 61 of Act XV of 1882.
9. Amendment of section 63 of Act XV of 1882.

BOMBAY ACT No. XLIV OF 1948.[1]

[THE PRESIDENCY SMALL CAUSE COURTS (BOMBAY AMENDMENT) ACT, 1948.]

[*18th May 1948.*]

An Act to amend the Presidency Small Cause Courts Act, 1882, in its application to the Province of Bombay.

XV of 1882. WHEREAS it is expedient to amend the Presidency Small Cause Courts Act, 1882, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Presidency Small Cause Courts (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Amendment of section 21 of Act XV of 1882.

XV of 1882. 2. In section 21 of the Presidency Small Cause Courts Act, 1882 (hereinafter called "the said Act"),—

(*a*) the words "and all suits whereof the amount or value of the subject-matter exceeds one thousand rupees" shall be deleted; and

(*b*) for the words "High Court" the words "Bombay City Civil Court" shall be substituted.

Substitution of new section for section 22 of Act XV of 1882.

3. For section 22 of the said Act, the following shall be substituted, namely :—

Costs when plaintiff sues in High Court or in Bombay City Civil Court in other cases cognisable by Small Cause Court.

"22. If in any suit instituted in the High Court or in the Bombay City Civil Court, other than a suit to which section 21 applies, the Judge who tries it is of the opinion that it ought to have been instituted in the Small Cause Court and if in such suit—

(*a*) where it is instituted in the High Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs as between attorney and client; or

(*b*) where it is instituted in the Bombay City Civil Court, the plaintiff does not obtain a decree, the defendant shall be entitled to his costs and may also be awarded such additional amount not exceeding one thousand rupees by way of compensation as the Judge may award; or

(*c*) where it is instituted in the High Court or in the Bombay City Civil Court, the plaintiff obtains a decree for any matter of an amount or value less than two thousand rupees, no costs shall be allowed to the plaintiff."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 177.

Amendment of section 31 of Act XV of 1882.

4. In section 31 of the said Act,—

(*a*) after the words "Madras City Civil Court or" the words, "the Bombay City Civil Court or" shall be inserted; and

(*b*) the words "or Bombay" shall be deleted.

Deletion of sections 39 and 40 of Act XV of 1882.

5. Sections 39 and 40 of the said Act shall be deleted.

Amendment of section 47 of Act XV of 1882.

6. In section 47 of the said Act, after the words "High Court" the words "or the Bombay City Civil Court" shall be inserted.

Amendment of section 49 of Act XV of 1882.

7. In section 49 of the said Act, for the words "High Court" the words "Bombay City Civil Court or the High Court, as the case may be," shall be substituted.

Amendment of section 61 of Act XV of 1882.

8. In section 61 of the said Act, after the words "High Court" at both the places where they occur the words "or the Bombay City Civil Court" shall be inserted.

Amendment of section 63 of Act XV of 1882.

9. In the marginal note to section 63 and in the said section 63 of the said Act, for the words "one thousand" the words "two thousand" shall be substituted.

[THE LEGAL PRACTITIONERS (BOMBAY AMENDMENT) ACT, 1948.]

[*18th May 1948.*]

An Act to amend the Legal Practitioners Act, 1879, in its application to the Province of Bombay.

XVIII of 1879. WHEREAS it is expedient to amend the Legal Practitioners Act, 1879, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:— Short title and commencement.

1. (*1*) This Act may be called the Legal Practitioners (Bombay Amendment) Act, 1948.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

XVIII of 1879. 2. In the Legal Practitioners Act, 1879, in section 36, in sub-section (*1*), for the words, "district Judge," the words "and District Judge, of the Bombay City Civil Court or, if the said Court consists of more than one Judge, the principal Judge thereof, every" shall be substituted. Amendment of section 36 of Act XVIII of 1879.

[1]. For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 132.

THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Insertion of new section 476C in Act V of 1898.

3. Insertion of new Chapter XLIIA in Part IX of Act V of 1898.

BOMBAY ACT No. XLVI OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY SECOND AMENDMENT) ACT, 1948.]

[*22nd May 1948.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expendient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Code of Criminal Procedure (Bombay Second Amendment) Act, 1948. Short title.

V of 1898. 2. In the Code of Criminal Procedure, 1898 (hereinafter called the said Code), in its application to the Province of Bombay, after section 476B the following new section shall be inserted, namely :— Insertion of new section 476C in Act V of 1898.

"476C. A criminal court dealing with an application made to it for filing a complaint under section 476 or 476A, and a court dealing with an appeal under section 476B and the High Court dealing with an application in revision shall have power to make such order as to costs as may be just : Power to order costs.

Provided that no such order shall be made against the Government or any public servant acting on behalf of the Government."

3. In Part IX of the said Code, after Chapter XLII the following new Chapter shall be inserted, namely :— Insertion of new Chapter XLIIA in Part IX of Act V of 1898.

"CHAPTER XLIIA.

OF COSTS TO BE PAID BY THE COMPLAINANT OR INFORMANT.

516AA. (*1*) If in any case instituted upon complaint or upon information given to a police officer or to a magistrate, the accused is ordered to be discharged or acquitted by any court (including a court of appeal or revision) or if in any such case the proceedings are quashed by the High Court by an order made under section 561A and if such court is of the opinion that the complaint was made or the information was given without any reasonable and probable cause, it may, at the time of making such order, if the complainant or informant is present, call upon him forthwith to show cause why he should not be ordered to pay costs to such person ; or if the complainant or informant is not present, direct the issue of a notice to him to appear and show cause as aforesaid. Power to order costs against complainant or informant.

(*2*) The court shall record and consider any cause which such complainant or informant may show and may make an order directing him to pay the whole or any part of such costs. Such costs may include any expenses incurred in respect of witnesses and of pleader's fees which the court considers reasonable.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 93.

(*3*) The court may, by the order directing payment of costs under sub-section (*2*) further order that in default of payment the person ordered to pay such costs shall suffer simple imprisonment for a period not exceeding thirty days.

(*4*) When any person is imprisoned under sub-section (*3*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply. XLV of 1860.

(*5*) No person who has been directed to pay costs by an order made under this section shall, by reason of such order, be exempted from any civil or criminal liability in respect of the complaint made or information given by him.

(*6*) Where any such order is made by a magistrate and the amount directed to be paid exceeds fifty rupees, the complainant or informant may, within sixty days from the date of the order, appeal against it to the court of session.

(*7*) In cases where the order is appealable under sub-section (*6*), the costs shall not be paid before the period allowed for the presentation of the appeal has elapsed or, if an appeal is presented, before the appeal has been decided and in other cases the costs shall not be paid before the expiration of one month from the date of the order."

THE BOMBAY SECONDARY SCHOOL CERTIFICATE EXAMINATION ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Constitution of Board.
4. Appointment of Chairman.
5. Disqualifications of members.
6. Disqualifications of Co-opted member.
7. Vacancy owing to disqualification.
8. Vacancy owing to absence.
9. Vacancy to be published.
10. Removal from membership.
11. Incorporation of Board.
12. Term of office of members.
13. Resignation of member of Board.
14. Power of Board to co-opt members for special purposes.
15. Powers and duties of Board.
16. Meetings of Board.
17. Powers and duties of Chairman.
18. Appointment, powers and duties of Secretary.
19. Appointment of other officers and Servants.
20. Board to pay costs on account of pay, pension, etc., of Chairman, Secretary and other officers and servants.
21. Examiners Committee.
22. Appointment of Committees.
23. Termination of Examiners appointment for misconduct or neglience.
24. Casual vacancies.
25. Fund.
26. Power of Board to make regulations.
27. Sanction of regulations by Provincial Government.
28. Making of first regulations.
29. First appointment of University representatives.
30. Proceedings not invalidated by reason of vacancies.
31. Powers of Board to make bye-laws.
32. Information, returns etc., to be furnished by Board.
33. Annual accounts and financial estimates.
34. Insertion of Chapter VIII-A in, and amendment of sections 33 and 37 of Bom. IV of 1928—(*not printed.*)
35. Amendment of section 41 of Bom. XX of 1948—(*not printed.*)

BOMBAY ACT No. XLIX OF 1948.[1]

[THE BOMBAY SECONDARY SCHOOL CERTIFICATE EXAMINATION ACT, 1948.]

[*7th October 1948.*]

An Act for the establishment of a Secondary School Certificate Examination Board in the Province of Bombay.

WHEREAS it is expedient to establish a Board for the purpose of holding and conducting an examination at the end of the high school education stage and for prescribing courses of studies for such examination with a view to equipping pupils for employment, for education in the University and for other cultural purposes; It is hereby enacted as follows :—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Secondary School Certificate Examination Act, 1948.

(*2*) This section, sections 2 to 33 and section 35 shall come into force at once. The Provincial Government may by notification direct that section 34 shall come into force on such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Board" means the Secondary School Certificate Examination Board constituted under section 3;

(*b*) "examination" means the Secondary School Certificate Examination;

(*c*) "examiner" shall include a paper-setter;

(*d*) "Headmaster" or "Headmistress" means the head of the teaching staff of a recognised high school, by whatever style designated;

(*e*) "notification" means a notification published in the *Bombay Government Gazette*;

(*f*) "prescribed" means prescribed by regulations made by the Board under this Act;

(*g*) "Province" means the Province of Bombay;

(*h*) "recognized high school" means a high school recognized by the Director of Public Instruction, Bombay Province, or an officer authorized by him in this behalf or a high school registered by any University established by law in the Province;

(*i*) "text book" means any book prescribed or recommended for the examination and includes a guide-book containing annotations on such text book.

Constitution of Board.

3. (*1*) There shall be established as soon as may be after this section comes into force a Board called the Secondary School Certificate Examination Board. The Board shall consist of a Chairman appointed by the Provincial Government and members as specified in sub-section (*2*).

(*2*) The members of the Board shall be as follows :—

(A) Six *ex-officio* members :—

(*a*) the Director of Public Instruction, Bombay Province, or a Deputy Director of Public Instruction designated by the Provincial Government;

(*b*) the Joint Director of Technical Education;

(*c*) the Director of Agriculture;

(*d*) the Inspector of Commercial Schools, Bombay;

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[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 206.

(*e*) one Educational Inspector designated by the Provincial Government;

(*f*) One Educational Inspectress of Girls' Schools designated by the Provincial Government.

(B) Twelve members elected by the Academic Councils of the Universities established by law in the Province from amongst members of such Councils in such number as may be determined by the Provincial Government by rules made in this behalf.

(C) Nominated by the Provincial Government :—

(*a*) twelve members, out of whom not less than five shall be secondary teachers, from amongst Headmasters, Headmistresses and secondary teachers of recognized high schools;

(*b*) one Principal of a secondary training college in the Province;

(*c*) four persons (not being Headmasters, Headmistresses or secondary teachers) who have had experience of matters connected with higher or secondary education:

Provided that a member shall cease to hold office as such member—

(*i*) if he is elected under paragraph (B) and ceases to be the member of the Academic Council;

(*ii*) if he is nominated under clause (*a*) of paragraph (C) and ceases to be either a Headmaster or a Headmistress or a secondary teacher; and

(*iii*) if he is nominated under clause (*b*) of paragraph (C) and ceases to be a Principal.

(*3*) The names of persons who have been elected or nominated to be members of the Board under sub-section (*2*) shall be published by the Board in the *Official Gazette*.

Appointment of Chairman.

4. (*1*) The Provincial Government shall appoint a Chairman of the Board. The Chairman so appointed shall hold office for a period of four years from the date of his appointment:

Provided that, after the expiry of the period of his appointment, he shall be eligible for re-appointment.

(*2*) The pay, allowances and other conditions of service of the Chairman shall be as determined by the Provincial Government.

Disqualifications of members.

5. A person shall be disqualified for being appointed as, and for being, a Chairman or for being elected, or nominated as, and for being a member of the Board or for being appointed as, and for being a member of any Committee under this Act,—

(*i*) if he, directly or indirectly, by himself or his partner,—

(*a*) has or had any share or interest in any text-book published, or

(*b*) has any share or interest in any work done by order of, or in any contract entered into on behalf of, the Board:

Provided that a person who had any share or interest in any text-book referred to in sub-clause (*a*) shall not be deemed to have incurred the disqualification under the said sub-clause if five years have elapsed from the date of the publication of such text-book;

(*ii*) if he is a person against whom an order has been made under sub-section (*1*) of section 23:

Provided that, where the order has been made on the ground that such person appears guilty of negligence, the disqualification shall cease to have effect after the expiry of the period specified in the order.

Explanation.—For the purposes of this section—

(*a*) the publication of a text shall include its republication;

(*b*) a person shall be deemed to have incurred disqualification by reason of his having any share or interest in the business of the publisher of such text-book.

Disqualifications of co-opted member.

6. A person shall be disqualified for being co-opted as a member of the Board under sub-section (*1*) of section 14 or a member of a Committee under sub-section (*2*) of section 22 or for continuing to act after co-option, if he is or becomes subject to any of the disqualifications mentioned in section 5.

Vacancy owing to disqualification.

7. If the Chairman or any member of the Board or Committee during the term for which he has been appointed, elected, nominated or co-opted, as the case may be, becomes subject to any of the disqualifications under section 5 or section 6, as the case may be, his office shall thereupon become vacant.

Vacancy owing to absence.

8. If any member of the Board during the term for which he has been elected nominated or co-opted, absents himself from three consecutive meetings of the Board without the permission of the Board, his office shall also thereupon become vacant.

Vacancy to be published.

9. Any vacant occurring under section 7 or 8 shall be published by the Board in the *Official Gazette.*

Removal from membership.

10. (*1*) The Provincial Government may, on the recommendation of the Board, remove any member of the Board or Committee, if he has been convicted by a court of law of any offence which, in the opinion of the Board, in a serious offence involving moral turpitude or if he has been guilty of scandalous conduct.

(*2*) No recommendation for the removal of any member shall be made by the Board unless the person concerned is given an opportunity to be heard in his defence.

(*3*) The name of any member who has been removed from the Board or Committee under sub-section (*1*) shall be published in the *Official Gazette.*

Incorporation of Board.

11. The Board shall be a body corporate by the name of the Secondary School Certificate Examination Board and shall have perpetual secession and a common seal and may sue and be sued by the corporate name and shall be competent to acquire and hold property both movable and immovable and to lease, sell or otherwise transfer any movable or immovable property which may have been vested in or been acquired by it and to contract and to do all things necessary for the purposes of this Act.

Term of office of members.

12. The members of the Board other than *ex-officio* members shall hold office for a term of three years from the date of the publication of their names under sub-section (*3*) of section 3 and on the expiration of such term, shall be eligible for being re-nominated or re-elected in accordance with the provisions of sub-section (*2*) of section 3 :

Provided that the term of office of the outgoing members shall be deemed to extend to and expire with the date on which the names of their successors elected or nominated, as the case may be, are published under sub-section (*3*) of section 3.

Resignation of member of Board.

13. A member of the Board, other than an *ex-officio* member, may resign his seat at any time by giving notice thereof in writing to the Chairman ; and such member shall be deemed to have vacated his seat as soon as the Chairman has received his resignation.

Power of Board to co-opt members for special purposes.

14. (*1*) The Board may co-opt persons not exceeding three to be extraordinary members for any special purpose.

(*2*) A person so co-opted shall not be deemed to be a member of the Board and shall have no right to vote at any meeting thereof, but he may take part in the discussions of the Board relating to the purpose for which he was co-opted.

Powers and duties of Board.

15. Subject to the provisions of this Act, the powers and duties of the Board shall be as follows, namely—

(*a*) to make regulations for all or any of the matters specified in section 26 ;

(*b*) to make regulations for the purpose of prescribing and recommending any book as a text-book :

Provided that a book in which the Chairman or a member of the Board has, directly or indirectly, by himself or his partner, any share or interest shall not be prescribed or recommended as a text-book ;

(*c*) to make regulations for imposing penalties for acts of misconduct committed by students appearing for the examination ;

(*d*) to appoint examiners and supervisors and to fix their remuneration and to arrange for the conduct of, and for publishing the results of the examination ;

(*e*) to fix, demand and receive such fees and other charges as may be prescribed ;

(*f*) to award certificates to students passing the examination ;

(*g*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by or under this Act ; and

(*h*) to do all such acts and things as may be necessary to carry out the purposes of this Act.

Meetings of Board.

16. The Board shall meet not less than once every three months. The Chairman may at any time, and shall, upon the written request of not less than one-third of the members of the Board other than the *ex-officio* members and for a date not more than twenty-one days after the presentation of such request, call a special meeting of the Board.

Powers and duties of Chairman.

17. (*1*) It shall be the duty of the Chairman to ensure that this Act, the regulations and bye-laws made thereunder are faithfully observed and he shall have all powers necessary for this purpose.

(*2*) In any emergency which, in the opinion of the Chairman, requires that immediate action should be taken, the Chairman shall take such action as he deems necessary and shall thereafter report his action to the Board at its next meeting.

(*3*) The Chairman shall exercise such other powers and perform such other duties as may be prescribed.

18. (*1*) The Board shall have a Secretary who shall be appointed by the Provincial Government. Appointment, powers and duties of Secretary.

(*2*) The Secretary shall, subject to the control of the Chairman of the Board, be the executive officer of the Board.

(*3*) He shall exercise such powers and perform such duties as may be prescribed.

(*4*) He shall be entitled to be present at the meetings of the Board but he shall not be entitled to vote thereat.

19. (*1*) The Provincial Government may appoint such other officers and servants as may be required to enable the Board to discharge its functions under this Act. Appointment of other officers and servants.

(*2*) The Chairman, Secretary and the other officers and servants shall be the servants of the Provincial Government and they shall draw their pay and allowances from the Provincial revenues.

20. The Board shall pay every year out of its Fund to the Provincial Government such cost as the Provincial Government may determine on account of the pay, pension, leave and other allowances of the Chairman, Secretary and other officers and servants appointed under this Act. Board to pay costs on account of pay, pension, etc., of Chairman, Secretary and other officers and servants.

21. (*1*) There shall be a Committee called the Examiners Committee for the purpose of drawing up panels of names of examiners. Examiners Committee.

(*2*) The Examiners Committee shall consist of—

(*i*) Chairman of the Board—*ex-officio* Chairman;

(*ii*) Six members appointed by the Board in the prescribed manner as specified below :—

(*a*) one from amongst the *ex-officio* members of the Board;

(*b*) two from amongst the elected members of the Board; and

(*c*) three from amongst the nominated members of the Board.

(*3*) The Examiners Committee shall draw up panels of the names of examiners Such panels shall consist of such number as may be prescribed. The panels so drawn up shall be submitted by the Examiners Committee to the Board. The Board shall make the appointments of the examiners from the panels so submitted.

(*4*) If any examiner is unable to act for any cause and a fresh appointment cannot be made in time by the Board, the Chairman shall out of the panels submitted to the Board appoint another examiner to fill the vacancy and shall report such appointment to the Board.

(*5*) The members of the Examiners Committee, other than the Chairman, shall hold office for a term of one year from the date of their appointment.

22. (*1*) The Board may also appoint such other Committees as it thinks necessary for the efficient discharge of its functions under this Act or the regulations made under this Act. Appointment of Committees.

(*2*) Such Committees may consist of members of the Board and such other persons as the Board may in each case co-opt for any special purpose.

(*3*) The duties and functions of such Committees shall be as may be determined by the Board.

Termination of examiner's appointment for misconduct or negligence.

23. (*1*) If at any time it appears to the Board that a person appointed as an examiner under this Act has been guilty of any misconduct or negligence which renders his appointment as an examiner inexpedient the Board may make an order terminating his appointment and directing that such person shall not be eligible for appointment as an examiner at any time or for any specified period. Before making such order the Board shall observe such procedure as may be prescribed.

(*2*) The name of the person against whom an order has been made under sub-section (*1*) shall not be included in the panels of names submitted under section 21 for such period as may be specified in such order.

(*3*) Any person aggrieved by an order made under sub-section (*1*) may appeal to the Provincial Government within sixty days, from the date of the order. On such appeal being filed, the Provincial Government may, after making such inquiry, as it thinks fit, confirm, modify or reverse the order. The order of the Provincial Government shall be final.

Casual vacancies.

24. All casual vacancies among the members of the Board and the Examiners Committee (other than *ex-officio* members) shall be filled up as soon as it conveniently may be, by election, nomination or appointment, as the case may be; and the person elected, nominated or appointed to a casual vacancy shall hold office so long only as the member in whose place he is elected, nominated or appointed would have held it if the vacancy had not occurred.

Fund.

25. (*1*) The Board shall have its own Fund and the following moneys shall be placed to the credit thereof:—

(*a*) fees and charges levied by the Board;

(*b*) contribution, if any, paid by the Provincial Government; and

(*c*) any money received by or on behalf of the Board.

(*2*) The Fund shall be kept in any scheduled bank as defined in the Reserve Bank of India Act, 1934, or invested in securities authorized by the Indian Trust Act, 1882, at the discretion of the Board. II of 1934. II of 1882.

Power of Board to make regulations.

26. (*1*) The Board may, from time to time, make regulations for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(*a*) subjects and curricula for the examination;

(*b*) marks required for passing in any subject and the examination as a whole and for exemption, credit and distinction in any subject;

(*c*) admission of candidates to the examination and conditions governing such admission;

(*d*) appointment of examiners and their remuneration;

(*e*) qualifications and disqualifications of examiners;

(*f*) arrangements for the conduct of, and for publishing the results of, the examination;

(*g*) fixing of fees and charges in respect of the examination;

(*h*) awarding of certificates to the successful students;

(*i*) the procedure to be followed at the meetings of the Examiners Committee, the number of members required to form a quorum at such meetings and the travelling and other allowances to be drawn by the members of such committee;

(*j*) the procedure to be observed before making an order under section 23;

(*k*) providing for all matters which by this Act are to be or may be provided for by regulations.

27. No regulation or alteration or revocation of a regulation made under section 26 shall have effect until the same shall have been sanctioned by the Provincial Government. Sanction of regulations by Provincial Government.

28. Notwithstanding anything contained in section 26, the first regulations shall be made by the Provincial Government and they shall continue in force till new regulations are made by the Board under the said section and sanctioned by the Provincial Government under section 27. Making of first regulations.

29. The members referred to in paragraph (B) of section (2) of section 3 may, on the first constitution of the Board, be nominated by the Provincial Government but the members so nominated shall hold office only until they can be replaced by members elected as provided in that paragraph and the members so elected shall hold office so long only as the members replaced would have held office had they not been replaced. First appointment of University representatives.

30. No act or proceeding of the Board or of the Examiners Committee shall be invalidated merely by reason of any vacancy in, or any defect in the constitution of, the Board or the Committee. Proceedings not invalidated by reason of vacancies.

31. The Board may make bye-laws consistent with this Act and the regulations to provide for all or any of the following matters, namely :— Powers of Board to make bye-laws.

(*a*) the procedure to be followed at the meetings of the Board and the committees appointed by the Board and the number of members required to form a quorum at such meetings;

(*b*) the travelling and other allowances which may be drawn by members of the Board and the committees appointed by the Board;

(*c*) any other matter solely concerning the Board and such committees not provided for by this Act and the regulations.

32. (*1*) The Board shall furnish to the Provincial Government such reports, returns and statements as may be required by the Provincial Government and such further information relating to any matter connected with the work of the Board as the Provincial Government may require. Information, returns etc., to be furnished by Board.

(*2*) The Provincial Government may, after considering any such report, return or statement and any information furnished by the Board, give such directions consistent with this Act as may be necessary and the Board shall comply with such directions.

33. (*1*) The Board shall prepare the annual accounts and submit them to the Provincial Government for audit. Annual accounts and financial estimates.

(*2*) The Board shall prepare before such date as may be prescribed the financial estimates for the ensuing year and forward them to the Provincial Government for its sanction. The Provincial Government may pass such orders with reference thereto as it thinks fit and communicate the same to the Board which shall give effect to such orders.

34-35. [*The amendments made by sections 34 and 35 of this Act have been incorporated in the Bombay University Act, 1928 and the Poona University Act, 1948 respectively.*]

THE INDIAN TRAMWAYS (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 7 of Act XI of 1886.
3. Amendment of sections 10 and 12 of Act XI of 1886.
4. Insertion of new section 49 in Act XI of 1886.

BOMBAY ACT No. L of 1948.[1]

[THE INDIAN TRAMWAYS (BOMBAY AMENDMENT) ACT, 1948.]

[*22nd October 1948.*]

An Act to amend the Indian Tramways Act, 1886, in its application to the Province of Bombay.

XI of 1886. WHEREAS it is expedient to amend the Indian Tramways Act, 1886, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Tramways (Bombay Amendment) Act, 1948.

Amendment of sectoin 7 of Act XI of 1886.

XI of 1886. 2. In sub-section (*1*) of section 7 of the Indian Tramways Act, 1886, hereinafter called the said Act, after the words "public traffic" the words "or private use, as the case may be" shall be inserted.

Amendment of sections 10 and 12 of Act XI of 1886.

3. In clause (*c*) of sub-section (*1*), and in sub-section (*2*), of section 10, and in section 12, of the said Act, after the words "public traffic", the words "or private use" shall be inserted.

Insertion of new section 49 in Act XI of 1886.

4. After section 48 of the said Act, the following new section shall be inserted, namely :—

Application of Act to tramways for private use.

"49. Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Official Gazette*, exempt any tramway, which is not, or when completed will not be, a federal railway, as defined in sub-section (*2*) of section 311 of the Government of India Act, 1935, and which is constructed and maintained for private use, from the operation of any provisions of this Act or declare that any provisions of this Act shall apply to such tramway with such modifications as may be specified in the notification."

26 Geo. 5, C. 2.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 299.

THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of Act III of 1909.
3. Validation of certain rules and notices.
4. Repeal of Bom. Ordinance No. III of 1948.

BOMBAY ACT No. LI OF 1948.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.]

[*22nd October 1948.*]

An Act to amend the Presidency-towns Insolvency Act, 1909, in its application to the Province of Bombay.

III of 1909. WHEREAS it is expedient to amend the Presidency-towns Insolvency Act, 1909, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Presidency-towns Insolvency (Bombay Amendment) Act, 1948.

Amendment of Act III of 1909.

III of 1909. 2. In the Presidency-towns Insolvency Act, 1909,—

(*a*) for clause (*i*) of section 9, the following shall be substituted, namely:—

"(i) if, after a creditor has served an insolvency notice on him under this Act in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice which shall not be less than one month, either comply with the requirements of the notice or satisfy the Court that he has a counter claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him.";

(*b*) in sub-section (*1*) of section 9A, after the words "or his agent" the words, "or to satisfy the Court that he has a counter claim orset off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him" shall be inserted.

Validation of certain rules and notices.

3. The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,—

III of 1909. (*a*) the rules including the forms relating to insolvency notices made by the High Court under the Presidency-towns Insolvency Act, 1909, before the 14th day of June 1948, shall be deemed to have been made under the said Act as amended to have been made under the said Act as amended by this Act, and

(*b*) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the 14th day of June 1948 shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

Repeal of Bom. Ordinance No. III of 1948.

Ordinance No. III of 1948. 4. The Presidency-towns Insolvency (Bombay Amendment) Ordinance, 1948, is hereby repealed.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 387.

THE SOCIETIES REGISTRATION (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 12 of Act XXI of 1860.
3. Insertion of new sections 12-A, 12-B and 12-C and in Act XXI of 1860.

BOMBAY LOTTERIES AND PRIZE COMPETITIONS CONTROL AND TAX ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title extent and commencement.
2. Definitions.
3. All lotteries unlawful.
4. Offences in connection with lotteries.
5. Licensed entertainment lotteries not unlawful.
6. Licensed private lotteries not unlawful.
7. Licensed prize competitions not unlawful.
8. Penalty for contravention of section 7.
9. Licences.
10. Power of Provincial Government to issue orders pertaining to licences.
11. Suspension or cancellation of lincence.
12. Levy of tax on lotteries, and prize competitions.
13. Calculation and recovery of tax levied under section 1.
14. Licence fee and other dues to be recoverable as arrears of land revenue.
15. Promoters of lotteries or prize competiion to keep and maintain accounts.
16. Penalty for failure to keept accounts.
17. Power of Collector ti requre production of accounts or to inspect accounts.
18. Power of entry and search.
19. Searches how made.
20. Power to arrest without warrant in certain cases.
21. Power of investigation.
22. Offences to be bailable.
23. Jurisdiction to try offences.
24. Government may authorise certain officers to perform functions of Collector.
25. Offences by corporations, etc.
26. Collectors and other officers to act subject to orders of Provincial Government.
27. Officers to be public servants.
28. Protection of persons acting in food faith and limitation of suits and prosecutions.
29. Appeal and revision.
30. Exemption.
31. Rules.
32. Saving.
33. Repeal of section 294 A of Act XLV of 1860.
34. Repeal.

BOMBAY ACT No. LIII OF 1948.[1]

[THE SOCIETIES REGISTRATION (BOMBAY AMENDMENT) ACT, 1948.]

[*5th November 1948.*]

An Act to amend the Societies Registration Act, 1860, in its application to the Province of Bombay

XXI of 1860. WHEREAS it is expedient to amend the Societies Registration Act, 1860, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Societies Registration (Bombay Amendment) Act, 1948. Short title.

XXI of 1860. **2.** In section 12 of the Societies Registration Act, 1860, hereinafter called the said Act, after the words "other society" the words "or whenever the governing body of any society registered under this Act decides to change the name of the society" shall be inserted. Amendment of section 12 of Act XXI of 1860.

3. After section 12 of the said Act, the following new sections shall be inserted, namely :— Insertion of new sections 12A, 12B and 12C in Act XXI of 1860.

"12-A. (*1*) Where a proposition for change of name has been agreed to and confirmed in the manner prescribed by section 12, a copy of the proposition so agreed to and confirmed shall be forwarded to the Registrar of Companies for registering the change of name. If the proposed name is identical with that by which any other existing society has been registered, or in the opinion of the Registrar so nearly resembles such name as to be likely to deceive the public or the members of either society, the Registrar shall refuse to resister the change of name. Registration of change of name.

(*2*) Save as provided in sub-section (*1*), the Registrar shall, if he is satisfied that the provisions of this Act in respect of change of name have been complied with, register the change of name and issue a certificate of registration altered to meet the circumstances of the case. On the issue of such a certificate the change of name shall be complete.

(*3*) The Registrar shall charge for any copy of a certificate issued under sub-section (*2*) a fee of rupee one and all fees so paid shall be accounted for to the Provincial Government.

12-B. The change in the name of a society shall not affect any rights or obligations of the society or render defective any legal proceeding by or against the society; and any legal proceeding which might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name. Effect of change of name.

12-C. If any society registered under this Act has, before the date of the coming into force of the Societies Registration (Bombay Amendment) Act, 1948, Registration of change.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 447.

of names effected before coming into force of Bom. LIII of 1948.

intimated to the Registrar of Companies the change of its name and if the Registrar has recorded such change, the Registrar may, notwithstanding anything contained in this Act, on an application made by the society in this behalf and on payment of a fee as provided for in sub-section (*3*) of section 12-A, register the change of such name and issue a certificate to the society under sub-section (*2*) of the said section 12-A. On the issue of such certificate the change shall be deemed to be complete from the date on which such change was recorded by the Registrar, notwithstanding the fact that the society had not followed the procedure prescribed in sections 12 and 12-A."

Bom. LIII of 1948.

BOMBAY ACT No. LIV OF 1948.[1]

[THE BOMBAY LOTTERIES AND PRIZE COMPETITIONS CONTROL AND TAX ACT, 1948.]

[*15th November 1948.*]

An Act to control and to tax lotteries and prize competitions in the Province of Bombay.

WHEREAS it is expedient to control and to levy a tax on lotteries and prize competiitions in the Province of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Lotteries and Prize Competitions Control and Tax Act, 1948.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context—

(*a*) "coupon" includes, in relation to a prize competition, any document in which the solution to the competition is submitted by any person;

(*b*) "money" includes a cheque or any other negotiable instrument, a postal order or a money order;

(*c*) "newspaper" includes any journal, magazine or other periodical publication;

(*d*) "prize competition" includes—

(*i*) cross-word prize competition, missing words prize competition, picture prize competition, number prize competition, or any other competition for which the solution is prepared beforehand by the promoters of the competition or for which the solution is determined by lot;

(*ii*) any competition in which prizes are offered for forecasts of the results either of a future event or of a past event the result of which is not yet ascertained ornot yet generally known; and

(*iii*) any other competition success in which does not depend to a substantial degree upon the exercise of skill,

but does not include a prize competition contained in a newspaper printed and published outside the Province of Bombay;

(*e*) "Province" means the Province of Bombay;

(*f*) "quarter" means a period of three months beginning from the 1st January to 31st March, from 1st April to 30th June, from 1st July to 30th September and from 1st October to 31st December in each year;

(*g*) "ticket" includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

(*2*) For the purposes of this Act—

(*a*) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form; and

(*b*) documents or other matters shall be deemed to be distributed if they are distributed to persons or places whether within or without the Province and the expression "distribution" shall be construed accordingly.

[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 245.

All lotteries unlawful.

3. Subject to the provisions of this Act, all lotteries are unlawful.

Offences in connection with lotteries

4. (*1*) Subject to the provisions of this section every person who in connection with any lottery promoted or proposed to be promoted either in this Province or elsewhere—

(*a*) publishes any proposal to pay any sum, or to deliver any goods, or to do or forbear doing anything for the benefit of any person, or any event or contingency relative or applicable to the drawing of any ticket, lot, number or figure in the lottery; or

(*b*) prints any tickets for use in the lottery; or

(*c*) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery; or

(*d*) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—

(*i*) any advertisement of the lottery, or

(*ii*) any list (whether complete or not) of prize winners or winning tickets in the lottery, or

(*iii*) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other lotteries; or

(*e*) brings, or invites any person to send into the Province for the purpose of sale or distribution any ticket in, or advertisement of, the lottery; or

(*f*) sends or attempts to send out of the Province any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution, or the identity of the holder, of any ticket or chance in the lottery; or.

(*g*) uses any premises, or permits any premises to be used, for purposes connected with the promotion or conduct of the lottery: or

(*h*) causes or attempts to cause any person to do any of the abovementioned acts shall on conviction, be punishable,—

(*i*) for the first offence with fine which may extend to one thousand rupees;

(*ii*) for the second offence with fine which may extend to two thousand rupees; and

(*iii*) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both.

(*2*) In any proceedings instituted under sub-section (1), an accused person shall not be deemed to be guilty if he proves that the lottery to which the procceedings relate was such a lottery as is not deemed to be an unlawful lottery or prize competition under section 5, 6 or 7, as the case may be, and that at the date of the alleged offence the accused believed and had reasonable ground for believing that none of the conditions required by section 5 or 6 to be observed in connection with the promotion and conduct of the lottery had been broken.

Licensed entertainment lotteries not unlawful.

5. (*1*) A lottery promoted as an incident of an entertainment shall be deemed to be an unlawful lottery, unless the promoter thereof has obtained a licence in respect of such lottery.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—

(i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery;

(ii) the expenses incurred in printing tickets in the lottery; and

(iii) such sum (if any) not exceeding one hundred rupees, which the promoters of the lottery think fit to appropriate on account of any expense incurred by them in purchasing prizes in the lottery,

shall be devoted to purposes other than private gain;

(b) none of the prizes in the lottery shall be money prizes;

(c) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the entertainment takes place and during the progress of the entertainment; and

(d) the facilities afforded for participating in lotteries shall not be the only, or the only substantial, inducement to persons to attend the entertainment.

(3) If any of the conditions specified in sub-section (2) is broken, every person concerned in the promotion or conduct of the lottery shall, on conviction, be punishable—

(a) for the first offence with fine which may extend to one thousand rupees;

(b) for the second offence with fine which may extend to two thousand rupees; and

(c) for any subsequent offence with imprisonment for a term which may extend to three months or with fine which may extend to five thousand rupees or with both:

Provided that in any proceeding under this section, it shall be a defence to prove that the breach was committed without his knowledge.

Explanation.—The entertainments to which this section applies are bazaars, sales of work, fetes and other entertainments of a similar character, whether limited to one day or extending over two or more days.

Licensed private lotteries not unlawful.

6. (1) A private lottery shall be deemed to be an unlawful lottery unless the promoter thereof has obtained a licence in respect of such lottery.

(2) The following conditions shall be observed by the promoter in connection with the promotion and conduct of such lottery, namely :—

(a) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of a society, shall be devoted either to the provision of prizes as aforesaid or to purposes which are purposes of the society or, as to part, to the provision of prizes as aforesaid and, as to the remainder, to such purposes as aforesaid;

(b) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than—

(*i*) a notice thereof exhibited on the premises of the society for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside ; and

(*ii*) such announcement or advertisement thereof as is contained in the tickets, if any ;

(*c*) the price of every ticket or chance shall be the same and the price of any ticket shall be stated on the ticket ;

(*d*) every ticket shall bear upon the face of it the names and addres of each of the promoters and a statement of the persons to whom the sale of tickets or chances by the promoters in restricted, and a statement that no prize won in the lottery shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket or chance was sold by them, and no prize shall be paid or delivered except in accordance with that statement ;

(*e*) no ticket or chance shall be issued or allotted by the promoters except by way of sale and upon receipt of the full price thereof, and no money or valuable thing so received by a promoter shall in any circumstances be returned ; and

(*f*) no tickets in the lottery shall be sent through the post.

(*3*) If any of the conditions specified in sub-section (*2*) is broken, each of the promoters of the lottery, and where the person by whom the condition is broken is not one of the promoters, that person also, shall, on conviction, be punishable—

(*a*) for the first offence with fine which may extend to one thousand rupees ;

(*b*) for the second offence with fine which may extend to two thousand rupees ; and

(*c*) for any subsequent offence with imprisonment for a term may extend to three months or with fine which may extend to five thousand rupees or with both :

Provided that in any proceeding under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Explanation.—For the purposes of this section—

(*a*) the expression "private lottery" means a lottery in the Province which is promoted for, and in which the sale of tickets or chances by the promoters is confirmed to, either—

(*i*) members of one society established and conducted for purposes not connected with gaming, wagering or lotteries ; or

(*ii*) persons all of whom work on the same premises ; or

(*iii*) persons all of whom reside on the same premises, and which is promoted by persons each of whom is a person to whom under the foregoing provisions tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorised in writing by the governing body of the society to promote the lottery ; and

(*b*) the expression "society" includes a club, institution, organisation or other association of persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

Licensed prize competitions not unlawful.

7. A prize competition shall be deemed to be an unlawful prize competition unless a licence in respect of such competition has been obtained by the promoter thereof :

Provided that a licence may be granted for more than one such competition conducted by the same person.

8. Without prejudice to his liability, if any, to be proceeded against under the preceding provisions of this Act relating to lotteries, whoever contravenes the provisions of section 7 shall, on conviction, be punishable with imprisonment for a term which may extend to three months or with fine or with both. Penalty for contravention of section 7.

9. Every licence granted under this Act shall be granted by the Collector on payment of such fees and subject to such conditions and shall be in such form as may be prescribed. Licence.

10. Notwithstanding anything contained in this Act or any rules made thereunder, it shall be lawful for the Provincial Government by general or special order to— Power of Provincial Government to issue orders pertaining to licences.

(*a*) prohibit the grant of licences in respect of a lottery or prize competition or class of lotteries or prize competitions throughout the Province or in any area ;

(*b*) prescribe the maximum number of licences which may be granted in any area ;

(*c*) direct that no licences specified in such order shall be granted without the previous approval of the Provincial Government ;

(*d*) issue such other instructions in any matter pertaining to the grant or otherwise of licences under the Act as the Provincial Government may deem proper.

11. The Collector may suspend or cancel a licence granted under this Act— Suspension or cancellation of licence.

(*1*) if there is any breach of any of the conditions subject to which the licence is granted ; or

(*2*) if the holder of such licence contravenes any of the conditions specified in section 5 or 6 ; or

(*3*) if any tax payable under section 12 is not duly paid by the promoter ; or

(*4*) if the holder of such licence contravenes any of the provisions of section 15 ; or

(*5*) for any other reason, for which the suspension or cancellation of the licence is, in the opinion of the Provincial Government, necessary in the public interest.

12. (*1*) There shall be levied— Levy of tax on lotteries and prize competitions.

(*a*) in respect of every lottery for which a licence has been obtained under section 5 or 6, a tax at the rate of 12½ per cent. of the total sum received or due in respect of such lottery ; and

(*b*) in respect of every prize competition for which a licence has been obtained under section 7, a tax at such rate not exceeding 25 per cent. of the total sum received in respect of such competiton as may be specified by the Provincial Government in a notification in the *Official Gazette*.

The tax shall be collected from the promoter of such lottery or prize competition, as the case may be.

(*2*) Notwithstanding anything contained in sub-section (*1*), the Provincial Government may, by notification in the *Official Gazette*, direct that the tax to be levied in respect of a lottery or prize competition shall be at such rate not exceeding 50 per cent. of the total sum received or due in respect of such lottery or prize competition as may be specified in the notification.

(*3*) The Collector may, after making such inquiry as he deems fit, determine the person who shall be deemed to be the promoter for the purpose of this section and the decision of the Collector in this behalf shall be final.

Calculation and recovery of tax levied under section 12.

13. (*1*) The amount of tax to be levied in respect of a lottery or prize competition under section 12 shall be calculated by the Collector on the total sum received or due in respect of the lottery or prize competition as disclosed in the accounts maintained and statements submitted to him under section 15.

(*2*) In cases where no such accounts are maintained or where no such statements are submitted or where such accounts or statements are in the opinion of the Collector false or incorrect the Collector shall make the calculation to the best of his judgment.

(*3*) The tax leviable under section 12 shall in the case of a prize competition be paid within 30 days of the end of each quarter and in the case of a lottery be paid within 30 days of the date on which such lottery is drawn.

(*4*) If any tax payable under section 12 is in arrear the Collector may, in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

Licence fee and other dues to be recoverable as arrears of land revenue.

14. All sums payable as fees or taxes under this Act shall be recoverable as arrears of land revenue.

Promoters of lotteries or prize competition to keep and maintain accounts.

15. Every person promoting a lottery or prize competition of any kind shall keep and maintain accounts relating to such lottery or competition and shall submit to the Collector statements in such form and at such period as may be prescribed.

Penalty for failure to keep accounts.

16. If any promoter of a lottery or prize competition liable under section 15 to keep accounts or to submit statements fails to keep the accounts or to submit the statements in the manner and at the period prescribed, he shall, on conviction, be punishable with fine which may extend to five hundred rupees.

Power of Collector to require production of accounts or to inspect accounts.

17. The Collector may, for the purposes of this Act, at all reasonable times—

(*i*) require any promoter of a lottery or prize competition to produce before him accounts or other documents or to furnish any other information ; or

(*ii*) inspect the accounts of any such promoter.

Power of entry and search.

18. It shall be lawful for a police officer—

(*i*) in Greater Bombay not below the rank a Sergant or Sub-Inspector and either empowered by general order in writing or authorised in each case by special warrant issued by the Commissioner of Police, Bombay, and

(*ii*) elsewhere not below the rank of a Sub-Inspector of Police authorised by a special warrant issued in each case by a Magistrate of the First Class or a District Superintendent of Police or by an Assistant or Deputy Superintendent of Police specially empowered by the Provincial Govenment in this behalf—

(*a*) to enter, with the assistance of such persons as may be found necessary, by night or by day, and by force, if necessary, any house, room or place which he has reason to suspect is used for purposes connected with the promotion or conduct of any lottery or prize competition;

(*b*) to search all parts of the house, room or place which he shall have so entered, the persons whom he shall find therein and also such persons as may be specified by name in the warrant;

(*c*) to take into custody and bring before a Magistrate all such prsons;

(*d*) to seize all things which are reasonably suspected to have been used or intended to be used in connection with a lottery or prize competition and which are found therein:

Provided that no officer shall be authorised by special warrant unless the Commissioner of Police, the Magistrate, the District or Assistant or Deputy Superintendent of Police concerned is satisfied, upon any complaint made before him on oath and upon making such inquiry as he may think necessary, that there are reasonable ground to suspect the said house, room or place to be used for purposes connected with the promotion or conduct of an unlawful lottery or prize competition.

19. All searches made under section 18 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898. Searches how made.

V of 1898.

20. A Police Officer may apprehend without warrant any person found, or reasonably suspected of, committing an offence under clause (*a*), (*c*) or (*d*) of sub-section (*1*) of section 4 in any public street, or thoroughfare or in any place to which the public have or are permitted to have access. Power to arrest without warrant in certain cases.

21. (*1*) Every Officer not below the rank of sub-inspector of police shall have power to investigate all offences punishable under this Act. Power of investigation.

V of 1898.

(*2*) Every such officer shall, in the conduct of such investigation, exercise the powers (except the power to arrest without warrant otherwise than under section 20) conferred by the Code of Criminal Procedure, 1898, upon an officer incharge of a police station for the investigation of a cognizable offence.

22. All offences punishable under this Act shall be bailable. Offences to be bailable.

23. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act. Jurisdiction to try offences.

24. The Provincial Government may, by general or special order, authorise any officer to perform the functions to be performed by the Collector under any of the provisions of this Act. Government may authorise certain officers to perform functions of Collector.

25. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not) every person who at the time of the commission of the offence was a director, manager, person concerned with the management thereof Offences by corporations, etc.

shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Collectors and other officers to act subject to orders of Provincial Government.

26. The Collectors and all officers duly authorised under section 24 shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders as the Provincial Government may from time to time make.

Officers to be public servants.

27. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith and limitation of suits and prosecutions.

28. (*1*) No suit, prosecution or other legal proceeding shall be instituted against any officer of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against the Province and no prosecution or suit shall be instituted against any officer of the Crown in respect of any thing done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and revision.

29. (*1*) Any person aggrieved by any order passed under this Act by the Collector or any officer authorised under section 24 may appeal against such order to the Commissioner or to such officer as the Provincial Government may appoint in this behalf.

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by sub-section (*3*), be final and shall not be liable to be called in question in any court of law whether in a suit or other proceeding or by way of appeal or revision.

(*3*) The Provincial Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

Exemption.

30. The Provincial Government may exempt from all or any of the provisions of this Act any prize competition the net proceeds of which are to be devoted to a charitable purpose.

Rules.

31. (*1*) The Provincial Government may, by notification in the *Official Gazette* make rules for the purposes of carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision the Provincial Government may make rules for the following matters :—

(*i*) the form of licence and the fees on payment of which and the conditions subject to which a licence shall be granted under section 9 ;

(*ii*) the manner in which the accounts shall be kept and maintained and the form in which, the period at which, the statements of accounts are to be submitted under section 15.

(*3*) Any rule made under this section may provide that any person contravening any such rule shall, on conviction, be liable to fine which may extend to fifty rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication.

Saving.

32. Nothing in this Act shall apply to—

Bom. III of 1912.

(*a*) the owner, lessee or occupier of any race course to whom a licence has been granted for horse racing on a race course under section 4 of the Bombay Race Courses Licensing Act, 1912, or to any person who carries on the business or vocation of or acts as a book-maker or turf commission agent under a licence or permit issued by such owner, lessee or occupier to enable him to carry on his business or vocation under the said Act as specified in the licence or permit or to any entries in respect of any stake or bet received by such person;

(*b*) a state lottery within the meaning of entry 48 in List I in the Seventh Schedule to the Government of India Act, 1935;

26, Geo. 5 Ch. 2.

(*c*) a lottery specially authorised by the Provincial Government.

Repeal of section 294A of Act XLV of 1860.

XLV of 1860.

33. The provisions of section 294-A of the Indian Penal Code, in its application to the Province of Bombay, are hereby repealed.

Repeal.

Bom. XI of 1939.

34. The Bombay Prize Competition Tax Act, 1939, is hereby repealed:

Provided that all licences granted under the said Act and in force on the date on which this Act comes into force shall be deemed to be granted under this Act.

THE BOMBAY ANIMAL CONTAGIOUS DISEASES (CONTROL) ACT, 1948.

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SCHEDULE.

BOMBAY ACT No. LIX OF 1948.[1]

[THE BOMBAY ANIMAL CONTAGIOUS DISEASES (CONTROL) ACT, 1948.]

[*30th November 1948.*]

An Act to provide for the prevention and control of contagious diseases affecting animals.

WHEREAS it is expedient to provide for the prevention and control of contagious diseases affecting animals; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

1. This Act may be called the Bombay Animal Contagious Diseases (Control) Act, 1948. Short title.

2. (*1*) This Act extends to the whole of the Province of Bombay. Extent and commencement.

(*2*) This section shall come into force at once. The Provincial Government may, from time to time, by notification in the *Official Gazette*, direct that all or any of the remaining provisions of this Act shall come into force in such area in respect of such scheduled disease and on such date as may be specified in the notification and may by similar notification direct that such provisions shall cease to be in force in any area from such date as may be specified therein.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*a*) "animal" means any domesticated animal or bird, or any animal or bird kept in confinement;

(*b*) "export" means to take out of the Province otherwise than across a customs frontier as defined by the Dominion Government;

(*c*) "import" means to bring into the Province otherwise than across a customs frontier as defined by the Dominion Government;

(*d*) "infective animal" means an animal which is affected with a scheduled disease or has recently been in contact with or in close proximity to an animal so affected;

(*e*) "Inspector" means an Inspector appointed under section 4;

(*f*) "prescribed" means prescribed by rules made under section 36;

(*g*) "rules" means rules made under section 36;

(*h*) "scheduled disease" means any disease specified in the Schedule to this Act;

(*i*) "transport" means to remove to one place from another place within the Province;

(*j*) "Veterinary Surgeon" means a Veterinary Surgeon appointed under section 4;

4. (*1*) The Provincial Government may, by notification in the *Official Gazette*, appoint a person to be a Veterinary Surgeon for the purposes of this Act for such local area as may be specified in the notification and may specify the area within which he shall exercise the powers and perform the duties of a Veterinary Surgeon under this Act. Appointment of Veterinary Surgeons and Inspectors.

(*2*) The Provincial Government may, by a similar notification in the *Official Gazette*, appoint a person to be an Inspector for all or any of the purposes of this Act and specify the area within which he shall exercise the powers and perform the duties of an Inspector under this Act.

[1] For statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, Page 475.

(*3*) A Veterinary Surgeon shall, within the area for which he is appointed, exercise all the powers which an Inspector may exercise under this Act and may exercise such powers in addition to his powers as Veterinary Surgeon.

Veterinary Surgeons and Inspectors to be public servants.

5. Every Veterinary Surgeon and every Inspector appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

PART II.

PREVENTION AND CONTROL OF SCHEDULED DISEASES.

Power to prohibit or regulate import, export or transport of, holding of markets, fairs, etc. of, and traffic in, infective animals, etc.

6. (*1*) The Provincial Government may, for the purpose of preventing the outbreak or spread of any scheduled disease by notification in the *Official Gazette*, prohibit, control or regulate in such manner and to such extent as it may think fit—

(*a*) the import, export or transport of any animals, or the carcasses thereof, or of any part of animals or carcasses thereof or of any fodder, bedding or other thing used in connection with animals, which may, in the opinion of the Provincial Government, carry infection, or

(*b*) the holding of animal markets, animal fairs, animal exhibitions or other concentration of animals in any specified area, or

(*c*) the sale or other dealings in, infective animals or the carcasses of animals, which at the time of their death were infective, or any fodder, bedding or other thing used in connection with such animals which may, in the opinion of the Provincial Government, carry infection.

(*2*) The Provincial Government may, by notification in the *Official Gazette*, specify the season or seasons during which and the route or routes by which animals may be imported into the Province and no person shall import animals into the Province otherwise than during the season and by the route so appointed.

Establishment of quarantine stations.

7. (*1*) The Provincial Government may establish quarantine stations for the inspection and detention of animals along the route appointed under sub-section (*2*) of section 6.

(*2*) All animals inspected or detained at a quarantine station shall be liable—

(*a*) to be vaccinated against any scheduled disease if in the opinion of the officer in charge of such station it is necessary to do so ; and

(*b*) to be marked in the prescribed manner.

(*3*) The period of detention of animals at a quarantine station for the purpose of inspection, vaccination and marking shall be such as may be prescribed.

(*4*) The animals detained at a quarantine station shall remain under the care of the person in charge who shall be responsible for their feeding and upkeep and for the payment of such fee for their vaccination and marking as may be prescribed.

(*5*) The officer in charge of the quaratine station shall, at the time of release of an animal from the station, grant in such form as may be prescribed a permit to the person in charge of the animal and such person shall, while in charge of the animal, produce it whenever required to do so by an Inspector or a Police Officer.

Power to isolate infective animals and their examination.

8. (*1*) Where an Inspector has reason to believe that any animal is infective he may, by order in writing, direct the owner or person in charge of such animal to keep it where it is for the time being or to remove it or allow it to be removed to such place of isolation or segregation as may be specified in the order :

Provided that where there is no person in charge of the animal and the owner is unknown, or where the order cannot be communicated to the owner of the animal without undue delay or where the person in charge of the animal refuses to comply with the order under this sub-section, the Inspector may seize the animal and remove it to a place of isolation or segregation.

(*2*) The Inspector shall forthwith report to the Veterinary Surgeon every order or seizure under sub-section (*1*).

Power of Veterinary Surgeons to examine animals.

9. (*1*) On receipt of a report under sub-section (*2*) of section 8 the Veterinary Surgeon shall, as soon as practicable, examine the animal and all animals with which it has been in contact or to which it has been in close proximity, and for this purpose may submit any animal to any prescribed test.

(*2*) If after such examination the Veterinary Surgeon—

(*a*) is of opinion that any animal is not infective, the Inspector shall forthwith return it to the person who, in his opinion, is entitled to its possession :

Provided that where such person cannot, in the opinion of the Inspector, be found after reasonable inquiry, he shall send the animal to the nearest cattle pound or deal with it in such other manner as may be prescribed,

(*b*) certifies in writing that any animal is affected with a scheduled disease, the Inspector shall destroy the animal, or deal with it in such other manner as may be prescribed, or

(*c*) certifies in writing that any animal is infective, though not diseased the animal shall be dealt with in such manner as may be prescribed.

(*3*) The decision of the Veterinary Surgeon whether any animal has been in contact with or in close proximity to an animal suspected to be affected with a scheduled disease shall be final.

Compensation for animals destroyed.

10. (*1*) The owner of an animal destroyed under sub-section (*2*) of section 9 may be paid such compensation as shall be determined in the manner prescribed :

Provided that no compensation shall be paid—

(*i*) to any person convicted of any offence punishable under this Act committed in respect of such animal ; or

(*ii*) in respect of any animal which, when it was imported, was affected with a scheduled disease on account of which it was destroyed.

(*2*) The decision under sub-section (*1*) regarding the right of a person to be paid any compensation or the amount of such compensation shall be final.

Declaration of private infected places and examination of such places by Veterinary Surgeon.

11. (*1*) If an Inspector has reason to believe that an infective animal is kept on any land, or in any building or other place he shall, forthwith, by order in writing, declare such land, building or place to be an infected place. The Inspector shall deliver a copy of the order to the owner, occupier or person in charge of the infected place and report his action to the Veterinary Surgeon.

Nothing in this sub-section shall apply to any place which is owned by or is under the control or management of, any local authority or a railway administration and in which animals are kept temporarily for purposes of sale or exhibition or while in transit.

(*2*) On receipt of a report under sub-section (*1*), the Veterinary Surgeon shall, as soon as practicable, examine the infected place and the animals kept therein. After such examinaton, he shall either confirm or cancel the order passed by the Inspector.

(*3*) If the Veterinary Surgeon confirms the order passed by the Inspector, he may declare all places in which animals are kept, temporarily or otherwise, within a radius not exceeding one mile from the infected place, to be infected places. The Veterinary Surgeon shall give a written notice of such declaration to the owners, occupiers or persons in charge of such places. The Veterinary Surgeon shall thereafter report the action taken by him under this section to the prescribed authority.

(*4*) If the Veterinary Surgeon cancels the order passed by the Inspector, the place specified in such order shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

Declaration of public infected places.

12. (*1*) Where the Veterinary Surgeon has reason to believe that an infective animal is or has been kept in any place which is owned by or is under the control or management of any local authority or railway administration or a port authority and in which animals are kept temporarily for purposes of sale, or exhibition or while in transit, he may, by order in writing, declare such place to be an infected place.

(*2*) The Veterinary Surgeon shall—

(*a*) cause a copy of the order passed by him under sub-section (*1*) to be exhibited prominently in the infected place in the regional language of the locality ;

(*b*) cause a copy of such order to be delivered at the office of the local authority or to the station master of the nearest railway station or to the Officer in charge of the port or in charge of a shipping office at such port, as the case may be ;

(*c*) cause a copy of the order to be sent to the nearest police station ; and

(*d*) forthwith report the action taken by him to the prescribed authority.

Power of Provincial Government to declare infected areas.

13. (*1*) On receipt of the report of the Veterinary Surgeon under sub-section (*3*) of section 11 or sub-section (*2*) of section 12, the prescribed authority shall, after making such further inquiry as it thinks fit, submit such report with his remarks thereon, to the Provincial Government.

(*2*) The Provincial Government on receipt of the report from the prescribed authority may—

(*a*) confirm the declaration under sub-section (*1*) or (*3*) of section 11 or sub-section (*1*) of section 12 either with or without modification ; or

(*b*) cancel any such declaration.

(*3*) Where the Provincial Government confirms any such declaration, either with or without modification, a notification shall be published in the *Official Gazette*, defining the limits of the area to which the declaration, with the modifications, if any, made therein, shall apply and declaring such area to be an infected area.

(*4*) The Provincial Government may by notification in the *Official Gazette* add to, amend, vary or rescind any notification published under sub-section (*3*) either on its own motion or on a further report of the Veterinary Surgeon submitted to it through the prescribed authority.

(*5*) On publication of a notification under sub-section (*3*) or (*4*), any place declared by the Inspector or the Veterinary Surgeon to be an infected place and not included in the infected area as defined in such notification shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

(*6*) The Inspector shall cause to be exhibited in some prominent place in the infected area and in the regional language thereof a copy of the notification issued under sub-section (*3*) or (*4*).

(7) Where the Provincial Government cancels any declaration referred to in sub-section (2), any place specified in such declaration shall cease to be an infected place and the Inspector shall give notice accordingly to all persons to whom copies of such declaration were delivered or on whom notices of such declaration were served.

Removal of animals and other things from infected area or place prohibited without licence.

14. (1) Where any area or place has been declared to be an infected area or place under the foregoing provisions, no person shall, while such a declaration remains in force, remove any infected animal, alive or dead, or any part of an animal or any food, bedding or other thing used in connection with an animal, save in accordance with the conditions of a licence granted by the Inspector.

(2) Nothing contained in sub-section (1) shall apply to the carriage by railway of any animal or thing referred to in that sub-section through an infected area or place :

Provided that where any such animal or thing while in transit through an infected area or place is unloaded therein, it shall not be removed therefrom save in accordance with the provisions of sub-section (1).

Power to require animals, etc., to be brought to infected areas.

15. Where any animal or thing referred to in section 14 is removed from an infected area or place otherwise than in accordance with the conditions of a licence granted under the said section 14, any Inspector or Police Officer may require the owner or person in charge of such animal or thing to take it back to such area or place :

Provided that nothing in this section shall affect the powers of an Inspector under section 8 to deal with infective animals.

Cleansing and disinfection of vessels and vehicles.

16. (1) Every vessel or vehicle used by a common carrier for the transport of animals shall be cleansed and disinfected by him at such periods and in such manner as may prescribed.

(2) The person in charge of every such vessel or vehicle shall, when required to do so by an Inspector, cause the vessel or vehicle to be taken to such place as the Inspector may direct and to stop and remain stationary for so long as may reasonably be necessary for the purpose of enabling the Inspector to inspect such vessel or vehicle. The Inspector may, after such inspection, if in his opinion the vessel or vehicle is not in a sanitary condition, require it to be cleansed and disinfected in the prescribed manner.

(3) Nothing in this section shall apply to the rolling stock of any railway.

Power to require disinfection of infected premises, vessels or vehicles.

17. Subject to such rules as may be prescribed, the Veterinary Surgeon, by order in writing, require the owner, occupier or person in charge of any land, building, or other place or of any vessel or vehicle in which an infective animal has been kept to have such land, building, place, vessel or vehicle disinfected, and the internal fittings thereof and other things found therein or near thereto to be disinfected or destroyed, in such manner and to such extent as may be specified in the order.

Power of Veterinary Surgeon to hold post-mortem.

18. Subject to such rules as may be prescribed the Veterinary Surgeon may make or cause to be made a post-mortem examination of any animal which at the time of its death was infective or is suspected to have been infective, and for this purpose he may cause the carcass of such animal to be exhumed.

Duty of certain persons to report scheduled disease.

19. Every owner or person in charge of, and every Veterinary practitioner who has been called to treat, an animal which he has reason to believe to be affected with a scheduled disease shall forthwith report the fact to the Inspector having jurisdiction in the area.

Keeping or grazing infective animal prohibited.

20. No person shall keep or graze in open or unenclosed land to which other persons have a right of access for their animals, any animal which he knows to be infective.

Bringing of infective animals in market, etc., prohibited.

21. No person shall bring or attempt to bring into any market fair, exhibition or other concentration of animals, any animal which he knows to be infective.

Placing of carcass of infective animals in river etc., prohibited.

22. No person shall place or cause or permit to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed, the carcass or any part of the carcass of any animal which at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

Disinterring without lawful authority carcass of animal prohibited.

23. No person shall without lawful authority disinter or cause to be disinterred the carcass or any part of the carcass of any animal which, at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

Powers of entry and inspection.

24. Subject to such rules as may be prescribed, an Inspector may enter upon and inspect any land, building or other place or any vessel or vehicle for the purpose of exercising the powers and performing the duties conferred or imposed on him by or under this Act.

Enforcement of orders and recovery of expenses.

25. (*1*) Where by any notice, requisition, or order made under this Act or under any rule or notification issued thereunder, any person is required to take any measures or to do anything in respect of any property owned or occupied by him or in his charge, a reasonable time shall be specified in such notice, requisition or order within which such measures shall be taken or such things shall be done, as the case may be.

(*2*) If such measures are not taken or such thing is not done within the time so specified, the authority issuing the notice, requisition or order may cause the measures to be taken or the thing to be done at the cost of the person concerned.

(*3*) The cost of any measures taken or thing done under sub-section (*2*) shall be recoverable from the person concerned in the manner provided by the Code of Criminal Procedure, 1898, for the recovery of fines imposed by a Court as if such costs were a fine imposed by a Court. V of 1898.

Power of Inspector to decide whether or not animal is infective

26. If any question arises under this Act whether or not an animal is an infective animal, the question shall be decided by the Veterinary Surgeon and his decision shall be final.

Penalties.

27. Whoever—

(*i*) fails to carry out any direction specified in, or contravenes the terms of, any notification issued under section 6 or imports any animal in contravention of the provisions of sub-section (*2*) thereof, or

(*ii*) to feed or look after the upkeep of the animal under sub-section (*4*) of section 7 or fails to produce the permit under sub-section (*5*) thereof, or

(*iii*) fails to comply with an order made by an Inspector under sub-section(*1*) of section 8, or

(*iv*) removes any animal or thing from an infected area or place in contravention of the provisions of section 14, or

(*v*) fails to comply with any direction given by an Inspector or a Police Officer under section 15, or

(*vi*) fails to cleanse or disinfect any vessel, or vehicle used for removing animals in the manner prescribed as required under sub-section (*1*), or fails to cause any vessel or vehicle to stop and remain stationary when required to do so under sub-section (*2*), of section 16, or

(*vii*) fails to comply with an order made by a Veterinary Surgeon under section 17, or

(*viii*) fails to report that an animal is infective as required by section 19, or

(*ix*) keeps or grazes any animal which he knows to be infective in contravention of the provisions of section 20, or

(*x*) brings or attempts to bring any animal which he knows to be infective in contravention of the provisions of section 21, or

(*xi*) disinters or causes to be disinterred the carcass or any part of the carcass of any animal which at the time of its death was infective or was destroyed on account of its being infective or suspected to be infective in contravention of the provisions of section 23,

shall, on conviction, be punished with fine which may extend in the case of a first conviction to one hundred rupees, and in the case of a second or subsequent conviction whether under the same or any other clause of this section to five hundred rupees.

Penalty for placing carcass of infective animal in river, etc.

28. Whoever places or causes or permits to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed the carcass or any part of the carcass of any animal which at the time of its death was infected or which was destroyed on account of its being infective or suspected to be infective, in contravention of the provisions of section 22 shall, on conviction, be punished, in the case of a first conviction with imprisonment for a term which may extend to six months or with fine which may extend to one hundred rupees or with both, and in the case of a subsequent conviction with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Penalty for vexatious entry, inspection and seizure.

29. (*1*) Whoever, being an Inspector or a Veterinary Surgeon, appointed under this Act, vexatiously and unnecessarily enters or inspects any land, building or other place or any vessel or vehicle or seizes or detains any animal shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

(*2*) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

Officers bound to assist Inspectors and Veterinary Surgeons.

30. All village officers and all officers of the departments of revenue, agriculture and veterinary shall be bound—

(*a*) to give immediate information to the Veterinary Surgeon and Inspector having jurisdiction in the area regarding the prevalence of a scheduled disease among animals in the area,

(*b*) to take all necessary measures to prevent the spread of disease, and

(*c*) to assist the Veterinary Surgeon and Inspector to carry out the provisions of this Act.

Institution of proceedings.

31. No Magistrate shall take cognizance of any offence punishable under this Act except upon the complaint of a Veterinary Surgeon.

Jurisdiction of Magistrate.

32. No Magistrate, other than a Presidency Magistrate, a Magistrate of the First Class or a Magistrate of the Second Class specially empowered in this behalf by the Provincial Government shall try any offence punishable under this Act.

Bar of claim to compensation.

33. No person shall except as provided for in section 10 be entitled to any compensation on account of the destruction of any animal or thing under provisions of this Act or of any loss, injury or inconvenience caused to him by reason of anything lawfully done under this Act.

Officers to act subject to orders of Government.

34. All officers shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders, not inconsistent with the provisions of this Act, as the Provincial Government may from time to time make.

Protection for action taken under this Act.

35. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made under this Act.

Rules.

36. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely: —

(*i*) the manner of marking animals under sub-section (*2*), the period of detention under sub-section (*3*), the amount of fee for the vaccination and marking of animals under sub-section (*4*), and the form of permit under sub-section (*5*), of section 7 ;

(*ii*) the test to which an animal may be submitted under sub-section (*1*), and the manner in which an animal may be dealt with under sub-section (*2*), of section section 9 ;

(*iii*) the manner in which compensation shall be determined under section 10 ;

(*iv*) the authority to be prescribed for the purposes of sections 11, 12 and 13 ;

(*v*) the periods at which and the manner in which the vessels and vehicles shall be cleansed and disinfected under section 16 ;

(*vi*) for disinfecting land, building or other place or vessel or vehicle under section 17 ;

(*vii*) the making of post-mortem examinations under section 18 ;

(*viii*) the distance from the shore within which carcasses shall not be placed under section 22 ;

(*ix*) for regulating the powers of an Inspector under section 24.

(*3*) In making a rule under sub-section (*1*) or sub-section (*2*), the Provincial Government may provide that a breach thereof shall be punishable with fine which may extentd in the case of a first conviction to Rs. 50 and in the case of a second or subsequent conviction to Rs. 100.

(*4*) The rules made under this section shall, subject to the condition of previous publication, be published in the *Official Gazette*.

SCHEDULE.

1. Rinderpest or cattle plague.
2. Foot and Mouth Disease.
3. Hoemorrhagic Septicaemia.
4. Blackquarter.
5. Anthrax.
6. Tuberculosis.
7. Johne's Disease.
8. Rabies.

BOMBAY ACT No. LX OF 1948.[1]

[THE CODE OF CIVIL PROCEDURE (BOMBAY AMENDMENT) ACT, 1948.]

[*30th November 1948.*]

An Act to amend the Code of Civil Procedure, 1908, in its application to the Province of Bombay.

V of 1908. WHEREAS it is expedient to amend the Code of Civil Procedure, 1908, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Civil Procedure (Bombay Amendment) Act, 1948.

Amendment of section 60 of Act V of 1908.

2. In sub-section (*1*) of section 60 of the Code of Civil Procedure, 1908,—

V of 1908.

(*a*) after clause (*g*) of the proviso, the following new clause shall be inserted, namely :—

"(*gg*) stipends and gratuities allowed to pensioners of a local authority;" and

(*b*) in Explanation *1*, after the brackets and letter "(*g*)" the brackets and letters "(*gg*)" shall be inserted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 441.

THE PRESS AND REGISTRATION OF BOOKS (BOMBAY AMENDMENT) ACT, 1948.

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PREAMBLE.

SECTIONS.-

1. Short title.
2. Amendment of section 9 of Act XXV of 1867.
3. Amendment of section 10 of Act XXV of 1867.
4. Amendment of section 16 of Act XXV of 1867.

BOMBAY ACT No. LXI OF 1948.[1]

[THE PRESS AND REGISTRATION OF BOOKS (BOMBAY AMENDMENT) ACT, 1948.]

[*3rd December 1948.*]

An Act to amend the Press and Registration of Books Act, 1867, in its application to the Province of Bombay.

XXV of 1867. WHEREAS it is expedient to amend the Press and Registration of Books Act, 1867, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Press and Registration of Books (Bombay Amendment) Act, 1948. Short title.

XXV of 1867. **2.** In section 9 of the Press and Registration of Books Act, 1867 (hereinafter called the said Act),— Amendment of section 9 of Act XXV of 1867.

(*a*) to the marginal note, the words " and to notified libraries " shall be added ; and

(*b*) after the first paragraph, the following new paragraph shall be inserted, namely :—

" Such number of copies of the book not exceeding five shall also be delivered by the printer, free of expense, to such public libraries as the Provincial Government may, by notification in the *Official Gazette*, from time to time specify, within one calendar month after the day on which any such book shall first be delivered out of the press."

3. In section 10 of the said Act, after the word " officer " the words " or the person in charge of the library, as the case may be, " shall be inserted. Amendment of section 10 of Act XXV of 1867.

4. In section 16 of the said Act,— Amendment of section 16 of Act XXV of 1867.

(*a*) after the words " in this behalf " the words " or on the application of the person in charge of the library to whom a copy of the book should have been delivered, " shall be inserted ; and

(*b*) for the word " second " the word " third " shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 426.

THE INDIAN FOREST (BOMBAY AMENDMENT) ACT, 1948.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Amendment of section 28 of Act XVI of 1927.

3. Insertion of new section 34 A in, and amendment of section 35 of, Act XVI of 1927.

4. Amendment of section 36 of Act XVI of 1927

5. Amendment of section 37 of Act XVI of 1927.

BOMBAY ACT No. LXII OF 1948.[1]

[THE INDIAN FOREST (BOMBAY AMENDMENT) ACT, 1948.]

[*4th December 1948.*]

An Act to amend the Indian Forest Act, 1927, in its application to the Province of Bombay.

XVI of 1927. WHEREAS it is expedient to amend the Indian Forest Act, 1927, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Forest (Bombay Amendment) Act, 1948. Short title.

XVI of 1927. 2. In section 28 of the Indian Forest Act, 1927 (hereinafter called the said Act),— Amendment of section 28 of Act XVI of 1927.

(*i*) in sub-section (*1*), after the words "reserved forest" the words "or called a protected forest" shall be inserted; and

(*ii*) in sub-section (*3*),—

(*a*) after the word "reserved" the words "or protected" shall be inserted; and

(*b*) after the words "village forests" the words "according as the forests assigned are reserved or protected forests" shall be inserted.

3. (*1*) For sub-section (*1*) of section 35 of the said Act, the following shall be substituted, namely:— Insertion of new section 34A in, and amendment of section 35 of, Act XVI of 1927.

"34A. For the purposes of this Chapter 'forest' includes any land containing trees and shrubs, pasture lands and any other land whatsoever which the Provincial Government may, by notification in the *Official Gazette*, declare to be a forest. Interpretation.

35. (*1*) The Provincial Government may, by notification in the *Official Gazette*,—

(*i*) regulate or prohibit in any forest—

(*a*) the breaking up or clearing of the land for cultivation;

(*b*) the pasturing of cattle;

(*c*) the firing or clearing of the vegetation;

(*d*) the girdling, tapping or burning of any tree or the stripping off the bark or leaves from any tree;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 385.

(*e*) The lopping and pollarding of trees;

(*f*) the cutting, sawing, conversion and removal of trees and timber; or

(*g*) the quarrying of stone or the burning of lime or charcoal or the collection or removal of any forest produce or its subjection to any manufacturing process;

(*ii*) regulate in any forest the regeneration of forests and their protection from fire;

when such regulation or prohibition appears necessary for any of the following purposes:—

(*a*) for the conservation of trees and forests;

(*b*) for the preservation and improvement of soil or the reclamation of saline or water-logged land, the prevention of land-slips or of the formation of ravines and torrents, or the protection of land against erosion, or the deposit thereon of sand, stones or gravel;

(*c*) for the improvement of grazing;

(*d*) for the maintenance of a water supply in springs, rivers and tanks;

(*e*) for the maintenance, increase and distribution of the supply of fodder, leaf manure, timber or fuel;

(*f*) for the maintenance of reservoirs or irrigation works and hydro-electric works;

(*g*) for protection against storms, winds, rolling stones, floods and drought;

(*h*) for the protection of roads, bridges, railways and other lines of communication; and

(*i*) for the preservation of the public health."

(*2*) In sub-section (*2*) of section 35 of the said Act for the words "in or upon any forest or wasteland" the words "in any forest" shall be substituted.

(*3*) In sub-section (*3*) of section 35 of the said Act the words "or land" shall be deleted.

Amendment of section 36 of Act XVI of 1927.

4. In section 36 of the said Act—

(*i*) the words "or land" wherever they occur shall be deleted;

(*ii*) in sub-section (*1*), after the word "reserved" the words "or protected" shall be inserted.

Amendment of section 37 of Act XVI of 1927.

5. In section 37 of the said Act—

(*i*) in sub-section (*1*) the words "or land" shall be deleted;

(*ii*) sub-section (*2*) shall be deleted.

THE BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948.

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BOMBAY ACT No. LXVII OF 1948.[1]

[THE BOMBAY TENANCY AND AGRICULTURAL LANDS ACT, 1948.]

[*28th December 1948.*]

An Act to amend the law relating to tenancies of agricultural lands and to make certain other provisions in regard to those lands.

WHEREAS it is necessary to amend the law which governs the relations of landlords and tenants of agricultural lands;

AND WHEREAS on account of the neglect of a landholder or disputes between a landholder and his tenants, the cultivation of his estate has seriously suffered, or for the purpose of improving the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture, it is expedient to assume management of estates held by landholders and to regulate and impose restrictions on the transfer of agricultural lands, dwelling houses, sites and lands appurtenant thereto belonging to or occupied by agriculturists, agricultural labourers and artisans in the Province of Bombay and to make provisions for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Tenancy and Agricultural Lands Act, 1948.

(*2*) It extends to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Agriculture" includes horticulture, the raising of crops, grass or garden produce, dairy farming, poultry farming, stock breeding and grazing, but does not include cutting of wood only;

(*2*) "Agriculturist" means a person who cultivates land personally;

Bom. VII of 1925.

(*3*) "Co-operative Society" means a society registered under the provisions of the Bombay Co-operative Societies Act, 1925, or a society deemed to have been registered under the said Act;

Bom. VII of 1925.

(*4*) "Co-operative Farming Society" means a society registered as such under the Bombay Co-operative Societies Act, 1925;

(*5*) "To cultivate" means to carry on any agricultural operation;

(*6*) "To cultivate personally" means to cultivate on one's own account—

(*i*) by one's own labour, or

(*ii*) by the labour of any member of one's family, or

(*iii*) by servants on wages payable in cash or kind but not in crop share or by hired labour under one's personal supervision or the personal supervision of any member of one's family.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 295.

Explanation I.—A tenant who is a widow or a minor or is subject to any physical or mental disability shall be deemed to cultivate the land personally if it is cultivated by her or his servants or by hired labour;

Explanation II.—In the case of an undivided Hindu family, the land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family;

(*7*) "Improvement" means with reference to any land, any work which adds to the value of the land and which is suitable thereto as also consistent with the purpose for which it is held; and includes—

(*a*) the construction of tanks, wells, water channels, embankments and other works for storage, supply or distribution of water for agricultural purposes;

(*b*) the construction of works for the drainage of land or for the protection of land from floods or from erosion or other damage from water;

(*c*) the reclaiming, clearing, enclosing, levelling or terracing of land;

(*d*) the erection of buildings on the land, required for the convenient or profitable use of such land for agricultural purposes; and

(*e*) the renewal or reconstruction of any of the foregoing works or alterations therein or additions thereto as are not of the nature of ordinary repairs; but does not include such clearances, embankments, levellings, enclosures, temporary wells, water channels and other works as are commonly made by the tenants in the ordinary course of agriculture;

(*8*) "Land" means land which is used for agricultural purposes, and includes—

(*a*) the sites of farm buildings appurtenant to land used for agricultural purposes, and

(*b*) the sites of dwelling houses occupied by agriculturists, agricultural labourers or artisans and land appurtenant to such dwelling houses;

(*9*) "Landholder" means a zamindar, jagirdar, saranjamdar, inamdar, talukdar, malik or a khot or any person not hereinbefore specified who is a holder of land or who is interested in land, and whom the Provincial Government has declared on account of the extent and value of the land or his interests therein to be a landholder for the purposes of this Act;

(*10*) "Mamlatdar" includes a Mahalkari and any other officer whom the Provincial Government may appoint to perform the duties of a Mamlatdar under this Act;

(*11*) "Person" includes an undivided Hindu family;

(*12*) "Prescribed" means prescribed by rules made under this Act;

(*13*) "Profits of Agriculture" in respect of any land means the surplus remaining with the cultivator after the expenses of cultivation including the wages of the cultivator working on the land are deducted from the gross produce;

(*14*) "Protected tenant" means a person who is recognised to be a protected tenant undr section 31 ;

(*15*) "Reasonable rent" means the rent determined under section 12 ;

(*16*) "Rent" means any consideration, in money or kind or both, paid or payable by a tenant on account of the use or occupation of the land held by him but shall not include the rendering of any personal service or labour ;

(*17*) "Tenancy" means the relationship of landlord and tenant ;

(*18*) "Tenant" means an agriculturist who holds land on lease and includes a person who is deemed to be tenant under the provisions of this Act. The word "landlord" shall be construed accordingly ;

(*19*) "Tribunal" means the Agricultural Lands Tribunal constituted under section 67 ;

(*20*) "Year" means the year ending on the 31st of March or on such date as the Provincial Government may, by a notification, appoint for any locality ;

Bom. V of 1879. IV of 1882

(*21*) Words and expressions used in this Act but not defined shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879, and the Transfer of Property Act, 1882, as the case may be.

CHAPTER II.

General Provisions regarding Tenancies

IV of 1882.

3. The provisions of Chapter V of the Transfer of Property Act, 1882, shall, in so far as they are not inconsistent with the provisions of this Act, apply to the tenancies and leases of lands to which this Act applies.

Application of Chapter V of Transfer of Property Act.

4. A person lawfully cultivating any land belonging to another person shall be deemed to be a tenant if such land is not cultivated personally by the owner and if such person is not—

Persons to be deemed tenants.

(*a*) a member of the owner's family, or

(*b*) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family, or

(*c*) a mortgagee in possession.

Explanation.—A person shall not be deemed to be a tenant under this section if such person has been on an application made by the owner of the land as provided under secton 2-A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a tenant.

Bom. XXIX of 1939.

5. (*1*) No tenancy of any land shall be for a period of less than ten years.

No tenancy to be for less than ten years.

(*2*) Notwithstanding any agreement, usage or law to the contrary, no tenancy shall be terminated before the expiry of a period of ten years except on the grounds mentioned in section 14 :

Provided that any tenancy may be terminated by a tenant before the expiry of a period of ten years by surrendering his interest as a tenant in favour of the landlord.

Maximum rent.

6. (*1*) Notwithstanding any agreement, usage, decree or order of a Court or any law, the maximum rent payable by a tenant for the lease of any land shall not, in the case of an irrigated land, exceed one fourth and in the case of any other land exceed one third of the crop of such land or its value as determined in the prescribed manner.

(*2*) The Provincial Government may, by notification in the *Official Gazette*, fix a lower rate of the maximum rent payable by the tenants of lands situate in any particular area or may fix such rate on any other suitable basis as it thinks fit.

Rent.

7. The rent payable by a tenant shall, subject to the maximum rate fixed, under section 6 be the rent agreed upon between such tenant and his landlord or in the absence of any such agreement the rent payable according to the usage of the locality or if there is no such agreement or usage, or where there is a dispute as regards the reasonableness of the rent payable according to such agreement or usage, the reasonable rent.

Commutation of crop-share rent into cash.

8. (*1*) The Provincial Government may, from time to time, by notification in the *Official Gazette*, declare that rents payable wholly or partly as a crop-share in any area to which the notification applies shall, with effect from a date specified in the notification, which shall not be earlier than six months from the date of the notification, be commuted into cash rent.

(*2*) The Provincial Government may also by notification in the *Official Gazette*, in respect of any specified area fix the rate of commutation. If no rate of commutation has been so fixed the amount of commutation shall be determined by the Mamlatdar in the manner prescribed. The amount so determined shall not exceed the rent at the maximum rate fixed under section 6 and shall not be altered for a period of five years from the date on which it was determined :

Provided that the Mamlatdar may, during the said period of five years, reduce the rent if on an application made to him by a tenant he is satisfied that on account of deterioration of the land by floods or other causes beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation.

(*3*) Notwithstanding anything contained in any agreement, usage, decree or order of a Court no landlord in any area in respect of which a notification has been issued under sub-section (1) shall recover any rent by way of crop-share or in excess of the commuted cash rent after the date specified in such notification under sub-section (*1*).

Prohibition for receiving rent in terms of service or labour.

9. (*1*) Any landlord receiving rent from any tenant in terms of service or labour shall within twelve months from the date of coming into force of this Act apply to the Mamlatdar for commuting such rent into cash. Such application shall be made in such form as may be prescribed.

(*2*) On receipt of an application under sub-section (*1*) the Mamlatdar shall after holding an inquiry by order in writing commute such rent into cash rent.

(*3*) Notwithstanding anything contained in any agreement usage, decree or order of a Court or any law no landlord shall recover or receive rent in terms of service or labour after a period of twelve months from the date of coming into force of this Act.

10. If any landlord recovers rent from any tenant in contravention of the provisions of sections 6, 7, 8 or 9, he shall forthwith refund the excess amount recovered to the tenant and shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar in this behalf and shall also be liable to such penalty as may be prescribed by rules made under this Act. Refund of rent recovered in contravention of the provisions of the Act and other penalties.

11. Notwithstanding any agreement, usage or law, it shall not be lawful for any landlord to levy any cess, rate, vero, huk or tax or service of any description or denomination whatsoever from any tenant in respect of any land held by him as a tenant other than the rent lawfully due in respect of such land. Abolition of all cesses, etc.

12. (*1*) For the determination of the reasonable rent of any land the tenant or his landlord may apply in writing to the Mamlatdar. Such application shall be in such form as may be prescribed. Enquiries as regards reasonable rent.

(*2*) On receipt of an application under sub-section (*1*) the Mamlatdar shall give notice to the landlord or to the tenant, as the case may be, and after holding an inquiry, shall determine the reasonable rent of the land.

(*3*) In determining the reasonable rent regard shall, subject to the provisions of section 6, be had to the following factors :—

(*a*) the rental values of lands used for similar purposes in the locality ;

(*b*) the profits of agriculture of similar lands in the locality ;

(*c*) the prices of crops and commodities in the locality ;

(*d*) the improvements made in the land by the landlord or tenant ;

(*e*) the assessment payable in respect of the land ; and

(*f*) such other factors as may be prescribed :

Provided that in determining the reasonable rent the Mamlatdar may commute any rent payable wholly or partly as a crop-share into cash rent.

(*4*) A tenant may at any time during the pendency of proceedings under this section deposit with the Mamlatdar or if an appeal has been filed, with the Collector as the case may be, a sum equal to the amount of rent which if no proceedings had been instituted under this section he would have been liable to pay in respect of the land of which the reasonable rent is to be determined. On the completion of proceedings the Mamlatdar or the Collector shall direct that the amount so deposited or such part of it as is equal to the amount determined as reasonable rent under this section shall be paid to the landlord and shall make such other order as may be necessary.

(*5*) Every order passed by the Mamlatdar under this section if not appealed against, and every order passed by the Collector in appeal shall hold good for a period of five years and shall not be called in question during that period :

Provided that the Mamlatdar or the Collector, as the case may be, may, during the said period of five years—

(*i*) reduce the rent if on an application made to him by a tenant the Mamlatdar or the Collector, as the case may be, is satisfied that

(*a*) on account of deterioration of the land by floods or other cause beyond the control of the tenant the land has been wholly or partially rendered unfit for the purposes of cultivation, or

(*b*) the tenant has incurred any expenditure on account of improvements made on the land, or

(*ii*) enhance the rent, if on an application made to him by a landlord the Mamlatdar or the Collector, as the case may be, is satisfied that on account of any improvement made in the land by or at the expense of the landlord the produce of the land is increased.

Suspensions or remission of rent.

13. (*1*) Notwithstanding anything contained in section 84A of the Bombay Land Revenue Code, 1879, whenever from any cause the payment of the whole land revenue payable to Government by a landlord in respect of any land is suspended or remitted, the landlord shall suspend or remit, as the case may be, the payment to him of the rent of such land by his tenant. If in the case of such land the land revenue is partially suspended or remitted, the landlord shall suspend or remit the rent payable by the tenant of such land in the same proportion. Bom. V of 1879.

(*2*) If no land revenue is payable to Government in respect of such land and if from any cause, the payment of the whole or any part of the land revenue payable to Government in respect of any other land in the neighbourhood of such land has been suspended or remitted, the Collector shall, subject to the general or special orders of Government, in the manner provided in sub-section (*1*) suspend or remit, as the case may be, the payment to the landlord of the rent or part of it due in respect of such land.

(*3*) No application for assistance under sections 86 and 87 of the Bombay Land Revenue Code, 1879, shall be entertained, no suit shall lie and no decree of a Civil Court shall be executed for recovery by a landlord of any rent, the payment of which has been remitted, or during the period for which the payment of such rent has been suspended under this section. The period during which the payment of rent is suspended under this section shall be excluded in computing the period of limitation prescribed for any suit or proceeding for the recovery of such rent. Bom. V of 1879.

(*4*) Notwithstanding anything contained in sections 86 and 87 of the Bombay Land Revenue Code, 1879, the Collector shall, in passing an order under sub-section (*2*) of section 87 of the said Code, for rendering assistance to the landord, allow to the tenant a set-off for the sum, if any, paid by such tenant to the landlord in excess of the amount of rent due from him after deducting the amount required to be remitted under sub-section (*1*) or sub-section (*2*) of this section or under section 84A of the said Code. The set-off under this sub-section shall be allowed only in respect of the sums paid by such tenant to such landlord during a period of three years immediately preceding the date of the application made under section 86 of the said Code. Bom. V of 1879.

(5) If any landlord fails to suspend or remit the payment of rent as provided in this section, he shall be liable to refund to the tenant the amount recovered by him in contravention of this section. The tenant may apply to the Mamlatdar for the recovery of the amount and the Mamlatdar may after making an inquiry make an order for the refund.

Termination of tenancy.

14. (1) Notwithstanding any agreement, usage, decree or order of a Court of law, the tenancy of any land held by a tenant shall not be terminated unless such tenant—

(a) (i) has failed to pay in any year, within fifteen days from the day fixed for the payment of the last instalment of land revenue in accordance with the rules made under the Bombay Land Revenue Code, 1879, for that year, the rent of such land for that year, or

Bom. V of 1879.

(ii) if an application for the determination of reasonable rent is pending before the Mamlatdar or the Collector under section 12, has failed to deposit within fifteen days from the aforesaid date with the Mamlatdar or the Collector, as the case may be, a sum equal to the amount of rent which he would have been liable to pay for that year if no such application had been made, or

(iii) in case the reasonable rent determined under section 12 is higher than the sum deposited by him, has failed to pay the balance due from him within two months from the date of the decision of the Mamlatdar or the Collector, as the case may be ;

(b) has done any act which is destructive or permanently injurious to the land ;

(c) has sub-divided the land ;

(d) has sub-let the land or failed to cultivate it personally ; or

(e) has used such land for a purpose other than agriculture.

(2) In the case of a tenant, the duration of whose tenancy is for a period of ten years or more, the tenancy shall terminate at the expiration of such period, unless, the landlord has by the acceptance of rent or by any other act or conduct of his allowed the tenant to hold over within the meaning of section 116 of the Transfer of Property Act, 1882.

IV of 1882.

(3) Notwithstanding anything contained in sub-section (1), the tenancy of any land held by a tenant who is a minor or who is subject to physical or mental disability shall not be liable to be terminated under the said sub-section only on the ground that such land has been sub-let on behalf of the said tenant.

Tenancy deemed to be renewed for ten years if the tenant allowed to hold over.

15. Where the period of tenancy of any tenant has expired and if such tenant has been allowed to hold over under the last preceding section the tenancy of such tenant shall be deemed to have been renewed for a further period of ten years from the date of its expiry on the same terms and conditions as before.

Bar to eviction from dwelling house.

16. (*1*) If in any village, a tenant is in occupation of a dwelling house built at the expense of such tenant or his predecessor-in-title on a site belonging to his landlord, such tenant shall not be evicted from such dwelling house (with the materials and the site thereof and the land immediately appurtenant thereto and necessary for its enjoyment) unless—

(*a*) the landlord proves that the dwelling house was not built at the expense of such tenant or his predecessor-in-title, and

(*b*) such tenant makes a default in the payment of rent, if any, which he has been paying for the use and occupation of such site.

(*2*) The provisions of sub-section (*1*) shall not apply to a dwelling house which is situated on any land used for the purposes of agriculture from which he has been evicted under sub-section (*1*) of section 34.

Tenant to be given first option of purchasing site on which he has built a dwelling house.

17. (*1*) If a landlord to whom the site referred to in section 16 belongs intends to sell such site, the tenant at the expense of whom or whose predecessor-in-title, a dwelling house is built thereon shall be given in the manner provided in sub-section (*2*) the first option of purchasing the site at a value determined by the Tribunal.

(*2*) The landlord intending to sell such site shall give notice in writing to the tenant requiring him to state within three months from the date of service of such notice whether he is willing to purchase the site.

(*3*) If within the period of three months so specified the tenant intimates in writing to the landlord that he is willing to purchase the site, the landlord shall make an application to the Tribunal for the determination of the value of the site. On receipt of such application the Tribunal after giving notice to the tenant and after holding an inquiry shall determine the value of the site. The Tribunal may, by an order in writing, require the tenant to deposit the amount of value of such site within three months from the date of such order. On the deposit of such amount the site shall be deemed to have been transferred to the tenant and the amount deposited shall be paid to the landlord. The Tribunal shall on payment of the prescribed fees grant a certificate in the prescribed form to such tenant specifying therein the site so transferred and the name of such tenant.

(*4*) If the tenant fails to intimate his willingness to purchase the site within the time specified in sub-section (*2*) or fails to deposit the amount of the value within the time specified in sub-section (*3*) the tenant shall be deemed to have relinquished his right of first option to purchase the site and the landlord shall then be entitled to evict the tenant either on payment of such compensation for the value of the structure of such dwelling house as may be determined by the Tribunal or allow the tenant at his option to remove the materials of the structure.

(*5*) Any sale of a site held in contravention of this section shall be null and void.

Dwelling houses of agricultural labourers and artisans.

18. The Provincial Government may, by notification in the *Official Gazette* direct that the provisions of sections 16 and 17 shall apply to the dwelling houses, and the sites thereof occupied by agricultural labourers or artisans in any particular area specified in the notification.

19. If a tenant has planted or plants any trees on any land leased to him, he shall be entitled to the produce and the wood of such trees during the continuance of his tenancy and shall on the termination of his tenancy be entitled to such compensation for the said trees as may be determined by the Mamlatdar : Tenant's rights to trees planted by him.

Provided that a tenant shall not be entitled to compensation under this section if the tenancy is terminated by surrender on the part of the tenant :

Provided further that the landlord shall during the continuance of the tenancy, be entitled to the rent of the land as if the trees had not been planted.

20. (*1*) A tenant shall during the continuance of his tenancy be entitled to two-thirds of the total produce of trees naturally growing on the land, the landlord being entitled to one-third of the produce of such trees. Right to produce of naturally growing trees.

(*2*) If there is any dispute regarding the right to the produce of such trees or the apportionment of such produce as provided under sub-section (*1*) the tenant or the landlord may apply to the Mamlatdar. Such application shall be made in such form as may be prescribed.

(*3*) On receipt of such application, the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

21. Notwithstanding, anything contained in this Act or any other law for the time being in force or any agreement or usage, the tenancy of any land leased to and held by a person in the military, naval or air service of the Crown shall not be liable to be terminated on the ground only that the land has been sub-let by or on behalf of the said person. Sub-letting of land by or on behalf of person in military, naval or air service of the Crown not to terminate tenancy.

Bom. V of 1879.

22. Notwithstanding anything contained in section 123 of the Bombay Land Revenue Code, 1879, the responsibility for the maintenance and good repair of the boundary marks of the land held by a tenant and any charges reasonably incurred on account of service by revenue officers in case of alteration, removal or disrepair of such boundary marks shall be upon the tenant. Tenants responsible for maintenance of boundary marks.

23. (*1*) Notwithstanding any agreement, usage or custom to the contrary, if it appears to the Provincial Government that the construction, maintenance or repairs of any bunds protecting any land held by a tenant is neglected due to a dispute between the landlord and the tenant or for any other reason, it may by an order in writing direct that the construction, maintenance or repairs shall be carried out by such persons as may be specified in the order and the costs thereof shall be recoverable from the person in actual possession of the land as arrears of land revenue. Repairs of protective bunds.

(*2*) The person from whom the costs are recovered under sub-section (*1*) shall be entitled to recover the same or any part thereof from any person who under any agreement, usage or custom is wholly or partially liable to construct, maintain or repair the bunds.

(*3*) Notwithstanding anything contained in sub-section (*1*), it shall be lawful for the tenant of any land, the protective bunds of which are neglected, to construct, maintain or repair such bunds at his costs and the costs so incurred by him shall on

application made by him to the Mamlatdar be recoverable by him from the landlord according to his libaility under the agreement, usage or custom. The costs of the proceedings of the tenant's application shall also be recoverable from the landlord in case the landlord is held wholly or partially liable to pay the costs incurred by the tenant for construction, maintenance or repairs to the bunds.

Relief against termination of tenancy in certain cases.

24. Where any tenancy of any land held by any tenant is terminated on the ground that the tenant has done any act which is destructive or permanently injurious to the land, no proceeding for ejectment against such tenant shall lie unless and until the landlord has served on the tenant a notice in writing specifying the act of destruction or injury complained of and the tenant fails within a period of one year from the service of notice to restore the land to the condition in which it was before such destruction or injury.

Relief against termination of tenancy for non-payment of rent.

25. Where any tenancy of any land held by any tenant is terminated for non-payment of rent and the landlord files any proceeding to eject the tenant, the Mamlatdar shall call upon the tenant to tender to the landlord the rent in arrears together with the cost of the proceeding, within fifteen days from the date of order, and if the tenant complies with such order, the Mamlatdar shall, in lieu of making an order for ejectment, pass an order directing that the tenancy had not been terminated, and thereupon the tenant shall hold the land as if the tenancy had not been terminated :

Provided that nothing in this section shall apply to any tenant whose tenancy is terminated for non-payment of rent if he has failed for any three years to pay rent within the period specified in section 14.

Receipts for rent.

26. (*1*) In the absence of an express intimation in writing to the contrary by a tenant, every payment made by a tenant to the landlord shall be presumed to be a payment on account of rent due by such tenant for the year in which the payment is made.

(*2*) Every landlord shall give a written receipt for the amount of rent at the time when such amount is received by him in respect of any land in such form and in such manner as may be prescribed.

Sub-division, sub-letting and assignment prohibited.

27. (*1*) No sub-division or sub-letting of the land or assignment of any interest held by a tenant shall be valid. Such sub-division, sub-letting or assignment shall make the tenancy liable to termination :

Provided that nothing in this sub-section shall prejudicially affect the rights of a permanent tenant or any tenant the duration of whose tenancy is presumed to be co-extensive with the duration of the tenure of the landlord under section 83 of the Bombay Land Revenue Code, 1879. Bom. V of 1879.

(*2*) Notwithstanding anything contained in sub-section (*1*), it shall be lawful for a tenant to be a member of a co-operative farming society and as such member to sub-let, assign, mortgage or to create a charge on, his interest in the land in favour of such society or in consideration of a loan advanced by any person authorised under section 54 of the Bombay Agricultural Debtors Relief Act, 1947. Bom. XXVIII of 1947.

Bom. VII of 1925. Bom. XXVIII of 1947.

28. Save as expressly provided in this Act or as provided in the Bombay Co-operative Societies Act, 1925, or the Bombay Agricultural Debtors Relief Act, 1947, for the recovery of loans permitted under section 27, any interest in the land held by him as a tenant shall not be liable to be attached, seized or sold in execution of a decree or order of a Civil Court. Bar to attachment, seizure or sale by process of Court.

29. (*1*) A tenant or an agricultural labourer or artisan entitled to possesion of any land or dwelling house under any of the provisions of this Act may apply in writing for such possession to the Mamlatdar. The application shall be made in such form as may be prescribed. Procedure of taking possession.

(*2*) No landlord shall obtain possession of any land or dwelling house held by a tenant except under an order of the Mamlatdar. For obtaining such order he shall make an application in the prescribed form.

(*3*) On receipt of application under sub-section (*1*) or (*2*) the Mamlatdar shall, after holding an inquiry, pass such order thereon as he deems fit.

(*4*) Any person taking possession of any land or dwelling house except in accordance with the provisions of sub-section (*1*) or (*2*), as the case may be, shall be liable to forfeiture of crops, if any, grown in the land in addition to payment of costs as may be directed by the Mamlatdar or by the Collector and also to the penalty prescribed in section 81.

30. Save as otherwise provided in sub-section (*1*) of section 27, no other provision contained in this Act shall be construed to limit or abridge the rights or privileges of any tenant under any usage or law for the time being in force or arising out of any contract, grant, decree or order of a court or otherwise howsoever. Act not to affect rights or privileges of tenant under any other law.

CHAPTER III

PROTECTED TENANTS, THEIR SPECIAL RIGHTS AND PRIVILEGES

31. For the purposes of this Act, a person shall be recognised to be a protected tenant if such person has been deemed to be a protected tenant under section 3, 3A or 4 of the Bombay Tenancy Act, 1939. Protected tenants.

Bom. XXIX of 1939.

32. (*1*) Notwithstanding anything contrary in any law, usage or contract but subject to the provisions of sub-section (*6*), a protected tenant shall at any time be entitled to purchase from the landlord the land held by him as a protected tenant. Right of protected tenant to purchase land.

(*2*) For this purpose the protected tenant shall make an offer in writing to the landlord stating the amount of price for which he intends to purchase the land.

(*3*) If the landlord refuses or fails to accept the offer and to execute the sale deed within three months from the date of the offer, the protected tenant may apply to the Tribunal for the determination of the reasonable price of the land.

(*4*) The Tribunal after giving notice to the landlord and to all persons interested in the land, and after making an inquiry, shall determine the price in accordance with the rules made in this behalf. The protected tenant shall thereupon deposit the amount of the price so determined with the Tribunal within the prescribed period.

(*5*) On such deposit being made, the Tribunal shall issue a certificate in the prescribed form to the protected tenant declaring him to be the purchaser of the land. Such certificate shall be conclusive evidence of the sale as against the landlord and all persons interested therein.

(*6*) The right of a protected tenant under this section to purchase from his landlord the land held by him as a protected tenant shall be subject to all the following conditions specified in clause (*a*) or (*b*), as the case may be, and in clause (*c*) :—

(*a*) if the protected tenant does not hold any arable land, as an owner, the purchase of the land by him shall be limited to the extent of fifty acres of arable land ;

(*b*) if the protected tenant holds any arable land, as an owner the purchase of the land by him shall be limited to such area as will be sufficient to make up the area of the land owned by him to the extent of fifty acres of arable land ; and

(*c*) the total area of the arable land remaining in the ownership of the landlord after the purchase of the land or any portion thereof by the protected tenant is not less than fifty acres :

Provided that where the land to be purchased is of the ownership of an undivided Hindu family which consists of more than one branch the total area of the arable land remaining in the ownership of the said family, after the purchase of the land or any portion thereof by the protected tenant, shall not be less than fifty acres per branch of the said family subject to the maximum of the total area of two hundred acres, irrespective of the fact that the number of the branches of such family are more than four.

(*7*) If any question arises under this section regarding—

(*a*) the priority or any other right in relation to the purchase of the land among the protected tenants *inter se* or between the protected tenant and the landlord, or

(*b*) the kind, extent or location of any particular area of land to be purchased ;

such question shall be decided by the Tribunal in the prescribed manner.

Right of protected tenants to exchange land.

33. (*1*) Notwithstanding anything contained in this Act or any other law or any agreement or usage, the protected tenants holding lands in the same village as such protected tenants may agree and may make an application to the Mamlatdar in the prescribed form for the exchange of their tenancies in respect of the lands held by them as protected tenants.

(2) On receipt of the application, the Mamlatdar after giving notice to the landlords concerned and after making an inquiry may sanction the exchange on such terms and conditions as may be prescribed and may issue certificates in the prescribed form to the applicants.

(3) The certificates so issued shall be conclusive of the fact of such exchange against the landlords and all persons interested in the lands exchanged.

(4) Each of the two protected tenants shall on exchange hold the land on the same terms and conditions on which it was held by the original tenant immediately before the exchange subject to such modifications as may have been sanctioned by the Mamlatdar.

Landlord's right to determine protected tenancy.

34. (1) Notwithstanding anything contained in section 14, a landlord may terminate the tenancy of a protected tenant by giving him one year's notice in writing, stating therein the reasons for such termination, if the landlord *bona fide* requires the land for any of the following purposes, namely :—

(1) for cultivating personally, or

(2) for any non-agricultural use for his own purpose.

(2) Nothing in sub-section (1) shall entitle the landlord,—

(a) to terminate the tenancy of a protected tenant, if the landlord at the date of the notice has been cultivating personally other land fifty acres or more in area :

Provided that if the land which is being cultivated personally is less than fifty acres, the right of the landlord to terminate the tenancy of the protected tenant and to take possession of the land leased to him shall be limited to such area as will be sufficient to make up the area of the land which he has been cultivating personally to the extent of fifty acres :

Provided further that if an undivided Hindu family which consists of more than one branch is the landlord, the right of the family under this section to terminate the tenancy of the protected tenant and to take possession of the land leased to him shall be limited to such area as will be sufficient to make up the area of the land which the said family cultivates personally or uses for a non-agricultural purpose for its own purpose to the extent of fifty acres per branch of the said family subject to a maximum of the total area of two hundred acres, irrespective of the fact that the branches of such family are more than four ; or

(b) to terminate the tenancy of a protected tenant, if such tenant has become a member of a co-operative farming society so long as such tenant remains such member.

(3) If under sub-section (2) the tenancy of a protected tenant is terminated of a part of the land leased to him, the rent shall be apportioned in the prescribed manner in proportion to the area of the land left with the protected tenant.

Branch of undivided Hindu family for the purposes of sections 32 and 34.

35. For the purposes of sections 32 and 34 a branch of an undivided Hindu family shall mean a branch of such family, entitled under the rules of Hindu law to a share *per stirpes* in the property owned by the family on partition of the property.

Explanation.—A wife, a mother or a grandmother entitled under the rules of Hindu law to a share on the partition of the property of an undivided Hindu family shall not be deemed to constitute a branch of such family.

Power of Provincial Government to reduce the limit of fifty acres.

36. (*1*) Notwithstanding anything contained in section 32 or 34, the Provincial Government may, by notification in the *Official Gazette*, direct that the limits of fifty acres and two hundred acres specified in either of the said sections shall for the purposes of any area specified in the notification be reduced to the limits specified therein.

(*2*) The Provincial Government may by a like notification direct that the limits of fifty acres and two hundred acres specified in the said sections or the reduced limit specified in the notification under sub-section (*1*) shall comprise of such kind or kinds of lands in the area as may be specified in the notification.

Landlord to restore possession if he fails to cultivate within one year.

37. (*1*) If after the landlord takes possession of the land after the termination of the tenancy under section 34, he fails to use it for any of the purposes specified in the notice given under sub-section (*1*) of section 34 within one year from the date on which he took possession or ceases to use it at any time for any of the aforesaid purposes within twelve years from the date on which he took such possession, the landlord shall forthwith restore possession of the land to the tenant whose tenancy was terminated by him, unless he has obtained from the tenant his refusal in writing to accept the tenancy on the same terms and conditions or has offered in writing to give possession of the land to the tenant on the same terms and conditions and the tenant has failed to accept the offer within three months of the receipt thereof.

(*2*) After the tenant has recovered possession under sub-section (*1*) he shall, subject to the provisions of this Act, hold such land on the same terms and conditions on which he held it at the time his tenancy was terminated.

(*3*) If the landlord has failed to restore possession of the land to the tenant as provided in sub-section (*1*) he shall be liable to pay such compensation to the tenant as may be determined by the Mamlatdar for the loss suffered by the tenant on account of eviction.

Circumstances in which landlord shall be deemed to cultivate personally.

38. If a landlord after taking possession of the land after the termination of the tenancy under section 34 dies leaving as his heir a widow or a minor or a person who is subject to mental or physical disability, such heir shall be deemed to cultivate the land personally, if such land is cultivated by her or his servants or by hired labour.

Application for recovery of possession by tenant.

39. If at any time the tenant makes an application to the Mamlatdar and satisfies him that the landlord has failed to comply within a reasonable time with the provisions of section 37, the tenant shall be entitled on a direction by the Mamlatdar to obtain immediate possession of the land and to such compensation as may be awarded by the Mamlatdar for any loss caused to the tenant by eviction and by failure on the part of the landlord to restore or give possession of the land to him as required by section 37.

Continuation of tenancy on the death of a protected tenant.

40. If a protected tenant dies, the landlord shall offer to continue the tenancy on the same terms and conditions on which such tenant was holding it at the time of his death to the heir or heirs of the deceased tenant :

Provided that the offer required to be made by the landlord under this section shall be made in writing :

Provided further that if any heirs of the deceased tenant do not agree to continue the tenancy on the same terms and conditions on which the deceased protected tenant was holding the land, the Collector may select an heir or heirs who is or are willing to continue the tenancy on the same terms and conditions. The decision of the Collector shall be final.

Explanation.—For the purposes of this section, an heir means the lineal male descendants of a tenant or his adopted son and failing both his widow who has not re-married.

41. (*1*) A protected tenant who has made an improvement on the land held by him shall if his tenancy is terminated under the provisions of this Act, be entitled to compensation for such improvement. For determining the amount of the compensation the tenant shall apply to the Mamlatdar in the prescribed form. Compensation for improvement made by protected tenant.

(*2*) The compensation to which a tenant shall be entitled under sub-section (*1*) shall be the estimated value of such improvement at the time of the termination of his tenancy. In estimating such value regard shall be paid to—

(*a*) the amount by which the value of the land is increased by the improvement;

(*b*) the present condition of the improvement and the probable duration of its effects;

(*c*) the labour and capital provided or spent by the tenant for the making of the improvement; and

(*d*) any reduction or remission of rent or other advantage allowed to the tenant by the landlord in consideration of the improvement.

42. A protected tenant shall be entitled to erect a farm-house on the land held by him as a protected tenant. Protected tenant's right to erect farm-house.

43. No land purchased by a protected tenant under section 32 shall be transferred by sale, gift, exchange, lease, mortgage or assignment without the previous sanction of the Provincial Government. Restriction on protected tenant's right of transfer.

CHAPTER IV.

MANAGEMENT OF ESTATES HELD BY LANDHOLDERS.

44. Notwithstanding any law for the time being in force, usage or custom or the terms of contract or grant, when the Provincial Government is satisfied that on account of the neglect of a landholder or disputes between him and his tenants, the cultivation of his estate has seriously suffered, or when it appears to the Provincial Government that it is necessary for the purpose of improving the economic and social conditions of peasants or ensuring the full and efficient use of land for agriculture to assume management of any landholder's es ate, a notification announcing such intention shall be published in the *Official Gazette*, and the Collector shall cause notice of the substance of such notification to be given at convenient places in the locality where the estate is situated. Such notification shall be conclusive. Power to assume management of landholder's estate.

Vesting of estate in management.

45. On the publication of the notification under section 44, the estate in respect of which the notification has been published shall, so long as the management continues, vest in the Provincial Government. Such management shall be deemed to commence from the date on which the notification is published and the Provincial Government shall appoint a Manager to be in charge of such estate.

Effect of declaration of management.

46. On the publication of the notification under section 44, the following consequences shall ensue :—

(*1*) All proceedings then pending in any Civil Court in respect to the debts and liabilities enforceable against the estate shall be stayed ; and the operation of all processes, executions and attachments then in force for or in respect of such debts and liabilities shall be suspended ;

(*2*) So long as the management continues no fresh proceedings, processes, executions or attachments shall be instituted in or issued; enforced or executed by any Civil Court in respect of such debts and liabilities ;

(*3*) So long as the management continues the holder of the estate shall be incompetent—

(*a*) to enter into any contract involving the estate in pecuniary liability,

(*b*) to mortgage, charge, lease or alienate the property under management or any part thereof, or

(*c*) to grant valid receipts for the rents and profits arising or accruing therefrom ;

Provided that nothing contained in this section shall be deemed to preclude the Manager from letting and the holder from taking the whole or a part of such estate on such terms consistent with this Act as may be agreed upon between the parties ;

(*4*) So long as the management continues, no person other than the Manager shall be competent to mortgage, charge, lease or alienate such estate or any part thereof.

Manager's powers.

47. (*1*) The Manager shall during the management of the estate have all the powers which the holder thereof might as such have exercised and shall receive and recover all rents and profits due in respect of the property under management.

(*2*) For the purposes of recovering such rents and profits the Manager shall have, in addition to any powers possessed by the holder, all the powers possessed by the Collector under the law for the time being in force for securing and recovering land revenue due to Government.

Manager to pay costs of management, etc.

48. (*1*) From the sums received or recovered under section 47, the Manager shall pay—

(*i*) the costs of management including the costs of necessary repairs ;

(*ii*) the Government revenue and all debts and liabilities for the time being, due or incurred to the Crown in respect of the property under management ;

(*iii*) the rent, if any, due to any, superior holder in respect of the said estate ;

(*iv*) such periodical allowance as the Collector may from time to time fix for the maintenance and other expenses of the holder and of such members of his family as the Collector directs ;

(*v*) the costs of such improvements of the said estate as he thinks necessary and as approved by the Collector.

(*2*) The residue shall be retained by the Manager for the liquidation, in the manner hereinafter provided, of the debts and liabilities other than those mentioned in sub-section (*1*) and also for the repayment, either before or after the liquidation of such debts and liabilities, of any loan received from Government by the Manager under this Act. The balance, if any, shall be paid to the holder.

Notice to claimants.

49. On the publication of the order of management, the Manager shall publish in the *Official Gazette*, a notice calling upon all persons having claims against the estate under management to notify the same in writing to such Manager within two months from the date of the publication. He shall also cause copies of such notice to be exhibited at such several places as he thinks fit.

Claim to contain full particulars.

50. (*1*) Every such claimant shall, along with his claim, present full particulars thereof.

(*2*) Every document on which the claimant founds his claim, or on which he relies in support thereof, shall be delivered to the Manager along with the claim.

(*3*) If the document be an entry in any book, the claimant shall produce the book to the Manager, together with a copy of the entry on which he relies. The Manager shall mark the book for the purpose of identification, and, after examining and comparing the copy with the original, shall return the book to the claimant.

(*4*) If any document in possession or under the control of the claimant is not delivered or produced by him to the Manager along with the claim, the Manager may refuse to receive such document in evidence on the claimant's behalf at the investigation of the case.

Claim not duly notified to be barred.

51. Every such claim other than the claim of the Crown not informed to the Manager within the time and in the manner required by such notice shall, except as provided hereinafter, be deemed for all purposes and on all occasions, whether during the continuance of the management or afterwards, to have been duly discharged :

Provided that when proof is made to the Manager that the claimant was unable to comply with the provisions of section 49, the Manager may receive such claim within the further period of two months from the expiration of the original period of two months.

Determination of debts and liabilities.

52. The Manager shall inquire into the history and merits of every claim received under preceding sections and shall in accordance with the rules to be made under this Act determine the amount of the debts and liabilities, if any, justly due to the several claimants.

Power to rank debts and fix interest.

53. If such amount cannot be paid at once, the Manager shall then proceed to rank such debts and liabilities according to the order in which they shall be paid, and to fix the interest, if any, to be paid thereon, respectively from the date of the final decision thereon, to the date of the payment and discharge thereof.

Scheme for liquidation.

54. When the total amount of the debts and liabilities including those due and incurred to the Crown has been finally determined, the Manager shall prepare and submit to the Collector a schedule of such debts and liabilities, and a scheme (hereinafter called the liquidation scheme) showing the mode in which it is proposed to pay and discharge the same, whether from the income of the property under management, or with the aid of funds raised under the powers hereinafter conferred, or partly in one of such ways and partly in the other.

Provisions of scheme.

55. Every liquidation scheme shall further provide for the continuance of the payments to be made by the Manager and for the repayment of money, if any, which the Manager proposes to borrow from Government under this Act and may provide for the improvement of the estate under management either from the said income or with the aid of the funds raised as aforesaid or partly in one of such ways and partly in the other.

Effects of sanctioning scheme.

56. When the Collector sanctions the liquidation-scheme, he shall notify the fact of such sanction at such place and in such manner as the Provincial Government may from time to time by rule direct ; and thereupon—

(*i*) all proceedings, processes, executions and attachments stayed or suspended under section 46 shall be for ever barred ;

(*ii*) every debt or liability due or owing to any person which was provable before the Manager shall be extinguished, and such person shall be entitled to receive under the liquidation-scheme the amount, if any, finally awarded to him under the preceding sections in respect of such debt or liability.

Power to remove mortgagee in possession.

57. (*1*) If the estate under management or any part thereof be in the possession of a mortgagee or a conditional vendee, the Manager, at any time after the liquidation scheme has been sanctioned as aforesaid, may by an order in writing require such incumbrancer to deliver up possession of the same to him at the end of the then current revenue year.

(*2*) If such incumbrancer refuses or neglects to obey such order, the Manager may without resorting to a Civil Court enter upon the property and summarily evict therefrom the said incumbrancer or any other person obstructing or resisting on his behalf.

(*3*) Nothing in this section shall be held to affect the right of any incumbrancer to receive under the liquidation scheme the amount, if any, awarded to him under this Act.

Power to sell or lease.

58. Subject to the rules made under this Act, the Manager after the liquidation scheme has been sanctioned as aforesaid, shall have power to sell or grant on lease all or any part of the estate under the management :

Provided that the estate or any part thereof shall not be sold or leased for a period exceeding ten years without the previous permission of the Collector :

Provided further that the Collector shall not give such permission unless he is satisfied that such sale or lease is necessary for the benefit of the estate. The decision of the Collector shall be final.

59. The Manager's receipt for any moneys, rents or profits raised or received by him under this Act shall discharge the person paying the same therefrom or from being concerned to see to the application thereof. Manager's receipt a discharge.

60. (*1*) If the holder of the estate dies after the publication of the order of management, the management shall continue and proceed in all respects as if the holder were still living. Holder of estate dying.

(*2*) Any person succeeding to the whole or any part of the estate under management shall, while such management continues, be subject in respect of such estate to the disabilities imposed under this Act.

(*3*) No Civil Court shall, during the continuance of the management, issue any attachment or other process against any portion of the estate under management for or in respect of any debt or liability incurred by any such person either before or after his said succession.

61. The Provincial Government, when it is of opinion that it is not necessary to continue the management of the estate, by order published in the *Official Gazette* direct that the said management shall be terminated. On the termination of the said management, the estate shall be delivered into the possession of the holder, or, if he is dead, of any person entitled to the said estate together with any balances which may be due to the credit of the said holder. All acts done, or purporting to be done by the Manager during the continuance of the management of the estate shall be binding on the holder or to any person to whom the possession of the estate has been delivered. Termination of management.

XLV of 1860. **62.** The Manager appointed under this Chapter shall be deemed to be a public servant under section 21 of the Indian Penal Code. Manager deemed to be public servant.

CHAPTER V.

RESTRICTIONS ON TRANSFERS OF AGRICULTURAL LANDS, MANAGEMENT OF UNCULTIVATED LANDS AND ACQUISITION OF ESTATES AND LANDS.

63. (*1*) Save as provided in this Act,— Transfers to non-agriculturists barred.

(*a*) no sale (including sales in execution of a decree of a Civil Court or for recovery of arrears of land revenue or for sums recoverable as arrears of land revenue) gift, exchange or lease of any land or interest therein, or

(*b*) no mortgage of any land or interest therein, in which the possession of the mortgaged property is delivered to the mortgagee,

shall be valid in favour of a person who is not an agriculturist.

Provided that the Collector or an officer authorised by the Provincial Government in this behalf may grant permission for such sale, gift, exchange, lease or mortgage, on such conditions as may be prescribed.

(*2*) Nothing in this section shall be deemed to prohibit the sale, gift, exchange or lease of a dwelling house or the site thereof or any land appurtenant to it in favour of an agricultural labourer or an artisan.

Sale of agricultural land to particular persons.

64. (*1*) Where a landlord intends to sell any land, he shall apply to the Tribunal for determining its reasonable price. In determining the reasonable price, the Tribunal shall take into consideration the factors to be taken into consideration in fixing the reasonable rent under section 12.

(*2*) After the Tribunal has determined the reasonable price, the landlord shall make an offer in the prescribed form to persons in the following order of priority, provided that the person to whom the offer has been made has failed to pay to him the amount of the reasonable price as determined by the Tribunal or to deposit the same with the Tribunal within two months from the date on which the offer is communicated to such person. The order of priority shall be as follows :—

A. In the case of agricultural land other than a dwelling house, the site thereof and land appurtenant to such house when such site or dwelling house or land is not used or is not necessary to carry on agricultural operations in the adjoining lands—

(*i*) the tenant in actual possession of the land,

(*ii*) the person or persons personally cultivating any land adjacent to the land to be sold,

(*iii*) a co-operative farming society,

(*iv*) any other agriculturist,

(*v*) any other person who has obtained from the Collector a certificate that he intends to take the profession of agriculturist.

B. In the case of a dwelling house, or a site of a dwelling house or land appurtenant to such house when such dwelling house, site or land is not used or is not necessary to carry on agricultural operations in the adjoining lands—

(*i*) the tenant if he does not own a dwelling house or a suitable site for such house,

(*ii*) the person residing in the village who is not in possession of any dwelling house,

Provided that if there are more than one such persons the offer shall be made to such person or persons and in such order of priority as the Collector may determine in this behalf having regard to the needs of the following persons, namely :—

(*a*) an agricultural labourer,

(*b*) an artisan,

(*c*) any other person in the village.

(*3*) Any sale made in contravention of this section shall be void.

Assumption of management of lands which remained uncultivated.

65. (*1*) If it appears to the Provincial Government that for any two consecutive years, any land has remained uncultivated through default of either the landlord or tenant or any other cause whatsoever the Provincial Government may, after making such inquiry as it thinks fit, declare that the management of such land shall be assumed. The declaration so made shall be conclusive.

(*2*) On the assumption of the management, such land shall vest in the Provincial Government during the continuance of the management and the provisions of Chapter IV shall *mutatis mutandis* apply to the said land :

Provided that the manager shall have power to give such land on lease at rent equal to the amount of its assessment.

66. (*1*) If at any time it appears to the Provincial Government that any estate or land, the management of which has been assumed under the provisions of this Act or the interest of any other person in such estate or land should, in the public interest, be compulsorily acquired, it shall be lawful for the Provincial Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be conclusive that the estate, land or interest is needed to be acquired in public interest.

Acquisition of estate or land under management or interest therein.

(*2*) On the publication of the notification, the Collector shall cause publicity to be given to it at convenient places in the locality and also give notices to the holder of the estate, land or interest and to all persons known or believed to be interested therein.

(*3*) The Collector shall then make an inquiry in the prescribed manner to determine the value of the estate, land or interest which has been acquired. For the said purpose the Collector shall have the same powers as are vested in courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit :—

V of 1908.

(*a*) proof of facts by affidavits,

(*b*) summoning and enforcing the attendance of any person and examining him on oath ; and

(*c*) compelling the production of documents.

(*4*) In determining the value the Collector shall take into consideration—

(*a*) the assessment payable in respect of the estate or land ;

(*b*) the profits of agriculture and cultivation of the estate or land and of similar estates and lands in the locality ;

(*c*) the prices of crops and commodities in the locality ;

(*d*) exemption from assessment and other privileges enjoyed by the holder and other persons interested in respect of the land, estate and interest ;

(*e*) any other matter which may be prescribed.

(*5*) After determining the value of the estate, land or interest, the Collector shall make an award which shall contain—

(*a*) the particulars of the estate, land or interest,

(*b*) the compensation which in his opinion should be allowed for the land,

(*c*) the apportionment of the compensation among all persons known or believed to be interested.

(*6*) Such award shall be filed in the Collector's office and shall, except as hereinafter provided, be final and conclusive evidence as between the Collector and persons interested whether they have respectively appeared before the Collector or not of all the particulars including area and value of the estate, land or interest and the apportionment of compensation.

(*7*) When the Collector has made an award, the estate, land or interest therein shall vest in the Crown free from all incumbrances.

CHAPTER VI.

PROCEDURE AND JURISDICTION OF TRIBUNAL AND MAMLATDAR AND APPEALS

Constitution of the Tribunal.

67. (*1*) For the purposes of this Act, the Provincial Government shall constitute a Tribunal for any area to be called the Agricultural Lands Tribunal.

(*2*) The Tribunal shall consist of three or more members one of whom shall be the President. One member at least of the Tribunal shall be a person who is holding or has held a judicial office not lower in rank than that of a Civil Judge under the Bombay Civil Courts Act, 1869, or who has been for not less than three years a barrister, a member of the Faculty of Advocates in Scotland or an Advocate enrolled under the Indian Bar Councils Act, 1926, or a pleader enrolled under the Bombay Pleaders Act, 1920. XIV of 1869. XXXVIII of 1926. Bom. XVII of 1920.

(*3*) For any area for which the Tribunal has not been constituted, the Mamlatdar or any officer authorised in this behalf by the Provincial Government shall exercise the powers and perform the duties and functions of the Tribunal.

Duties of the Tribunal.

68. It shall be the duty of the Tribunal—

(*a*) to determine the value of the site of a dwelling house under section 17;

(*b*) to decide any dispute as to the particular area of land to be purchased under section 32;

(*c*) to determine the reasonable price of the land under section 32 and section 64;

(*d*) to perform such other functions in carrying out the provisions of this Act, as may be prescribed or as may be directed by the Provincial Government.

Powers of the Tribunal.

69. (*1*) The Tribunal shall have the same powers in making inquiries under this Act as are vested in Courts in respect of the following matters under the Code of Civil Procedure, 1908, in trying a suit, namely :— V of 1908.

(*a*) proof of facts by affidavits;

(*b*) summoning and enforcing the attendance of any person and examining him on oath; and

(*c*) compelling the production of documents.

(*2*) The Tribunal shall have also such other powers as may be prescribed. The Tribunal shall have powers to award costs.

(*3*) The orders of the Tribunal shall be given effect to in the manner provided in section 73.

Duties of the Mamlatdar.

70. For the purposes of this Act, the following shall be the duties and functions to be performed by the Mamlatdar—

(*a*) to decide whether a person is an agriculturist;

(*b*) to decide whether a person is a tenant or a protected tenant;

(*c*) to determine the value of the crop of the land under section 6;

(*d*) to determine the amount of rent in commutation of crop share rent under section 8;

(*e*) to determine the amount of the commutation of the rent received in terms of labour or service under section 9;

(*f*) to determine the amount of compensation under section 10 for the contravention of sections 6 to 9;

(*g*) to decide what is the reasonable rent under section 12;

(*h*) to determine the amount to be refunded to a tenant under section 13 (*5*);

(*i*) to determine the amount of compensation for trees to which a tenant is entitled under section 19;

(*j*) to determine any dispute regarding the right to produce of trees naturally growing under section 20;

(*k*) to determine the costs of repairing protective bunds under section 23;

(*l*) to sanction exchange of tenancies under section 33;

(*m*) to determine the amount of compensation payable to a protected tenant for any improvement under section 41;

(*n*) to take measures for putting the tenant or landlord or the agricultural labourer or artisan into the possession of the land or dwelling house under this Act; and

(*o*) to decide such other matters as may be referred to him by or under this Act.

Commencement of proceedings.

71. Save as expressly provided by or under this Act, all inquiries and other proceedings before the Mamlatdar or Tribunal shall be commenced by an application which shall contain the following particulars :—

(*a*) the name, age, profession and place of residence of the applicant and the opponent;

(*b*) a short description and situation of the property of which possession is sought, or the amount of the claim, as the case may be;

(*c*) the circumstances out of which the cause of action arose;

(*d*) a list of the applicant's documents, if any, and of his witnesses, and whether such witnesses are to be summoned to attend or whether the applicant will produce them on the day of the hearing;

(*e*) such other particulars as may be prescribed.

Procedure.

72. In all inquiries and proceedings commenced on the presentation of applications under section 71 the Mamlatdar or the Tribunal shall exercise the same powers as the Mamlatdar's Court under the Mamlatdars' Courts Act, 1906, and shall follow the provisions of the said Act, as if the Mamlatdar or the Tribunal were a Mamlatdar's Court under the said Act and the application presented was a plaint presented under section 7 of the said Act. In regard to matters which are not provided for in the

Bom. II of 1906.

said Act, the Mamlatdar or the Tribunal shall follow the procedure as may be prescribed by the Provincial Government. Every decision of the Mamlatdar or the Tribunal shall be recorded in the form of an order which shall state reasons for such decision.

Execution of order for payment of money or for restoring possession.

73. (*1*) Any sum the payment of which has been directed by an order of the Mamlatdar or the Tribunal including an order awarding costs shall be recoverable from the person ordered to pay the same as an arrear of land revenue.

(*2*) An order of the Mamlatdar or the Tribunal awarding possession or restoring the possession or use of any land shall be executed in the manner provided in section 21 of the Mamlatdars' Courts Act, 1906, as if it was the decision of the Mamlatdar under the said Act. Bom. II of 1906.

Appeals.

74. (*1*) An appeal against the orders of the Mamlatdar and Tribunal may be filed to the Collector in the following cases :—

(*a*) an order under section 4,
(*b*) an order under section 6,
(*c*) an order under section 8,
(*d*) an order under section 9,
(*e*) an order under section 10,
(*f*) an order under section 12,
(*g*) an order under section 13,
(*h*) an order under section 17,
(*i*) an order under section 19,
(*j*) an order under section 20,
(*k*) an order under section 23,
(*l*) an order under section 25,
(*m*) an order under section 29,
(*n*) an order under section 32,
(*o*) an order under section 33,
(*p*) an order under section 37,
(*q*) an order under section 39,
(*r*) an order under section 41, and
(*s*) an order under section 64.

(*2*) Save as otherwise provided in this Act, the provisions of Chapter XIII of the Bombay Land Revenue Code, 1879, shall apply to appeals to the Collector under this Act, as if the Collector were the immediate superior of the Mamlatdar or the Tribunal. The Collector in appeal shall have power to award costs. Bom. V of 1879.

Appeal against award of Collector.

75. (*1*) An appeal against the award of the Collector made under section 66 may be filed to the Bombay Revenue Tribunal, notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939. Bom. XII of 1939.

(*2*) In deciding appeals under sub-section (*1*), the Bombay Revenue Tribunal shall exercise all the powers which a court has and follow the same procedure which a court follows in deciding appeals from the decree or order of an original court under the Code of the Civil Procedure, 1908. V of 1908.

Revision.

Bom. XII of 1939.

76. (*1*) Notwithstanding anything contained in the Bombay Revenue Tribunal Act, 1939, an application for revision may be made to the Bombay Revenue Tribunal constituted under the said Act against any order of the Collector on the following grounds only :—

(*a*) that the order of the Collector was contrary to law ;

(*b*) that the Collector failed to determine some material issue of law ; or

(*c*) that there was a substantial defect in following the procedure provided by this Act, which has resulted in the miscarriage of justice.

(*2*) In deciding applications under this section the Bombay Revenue Tribunal shall follow the procedure which may be prescribed by rules made under this Act after consultation with the Bombay Revenue Tribunal.

Court-fees.

VII of 1870.

77. Notwithstanding anything contained in the Court-fees Act, 1870, every application or appeal made under this Act to the Mamlatdar, Tribunal, Collector or Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

Orders in appeal or revision.

78. (*1*) The Collector in appeal and the Bombay Revenue Tribunal in appeal under section 75 and in revision under section 76 may confirm, modify or rescind the order in appeal or revision or its execution or may pass such other order as may seem legal and just in accordance with the provisions of this Act.

(*2*) The orders of the Collector in appeal or of the Bombay Revenue Tribunal in appeal or revision shall be executed in the manner provided for the execution of the orders of the Mamlatdar and Tribunal under section 73.

Limitation.

79. Every appeal or application for revision under this Act shall be filed within a period of sixty days, from the date of the order of the Mamlatdar, Tribunal or Collector, as the case may be. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal or application for revision.

IX of 1908.

Inquiries and proceedings to be judicial proceedings.

XLV of 1860.

80. All inquiries and proceedings before the Mamlatdar, the Tribunal, the Collector and the Bombay Revenue Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

CHAPTER VII.

OFFENCES AND PENALTIES

Offences and penalties.

81. (*1*) Whoever contravenes any provision of any of the sections, sub-sections or clauses mentioned in the first column of the following Table shall, on conviction, for each such offence, be punishable with fine which may extend to the amount mentioned in that behalf in the third column of the said table.

Explanation.—The entries in the second column of the said table headed 'subject' are not intended as the definitions of offences described in the sections, sub-sections and clauses mentioned in the first column, or even as abstracts of those sections, sub-sections and clauses, but are inserted merely as references to the subjects of the sections, sub-sections and clauses, the numbers of which are given in the first column.

TABLE.

Section, sub-section or clause. 1		Subject. 2	Fine which may be imposed. 3
			Rs.
Section 5	...	Tenancy of land for a period less than ten years or termination of tenancy before the expiry of period of ten years.	1,000
Section 8 (3)	...	Recovery of rent by way of crop-share or in excess of commuted cash-rent.	1,000
Section 9 (3)	...	Receipt of rent in form of labour or service.	1,000
Section 11	...	Levy of cess, rate, vero, huk, tax or service which has been abolished.	1,000
Section 26 (2)	...	Failure to give written receipt for the amount of rent received.	100
Section 29	...	Taking possession of land or dwelling house contrary to section 29.	1,000

(2) An offence for the contravention of the provisions of section 9 or 11 shall be cognizable.

CHAPTER VIII.

MISCELLANEOUS.

Rules.

82. (1) The Provincial Government may make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for the following matters :—

(a) the manner of determining the value of the crop of the land under section 6 ;

(b) the manner of determining the amount of commutation of crop-share rent into cash under section 8 ;

(c) the penalty to be recovered under section 10 ;

(d) the other factors to be taken into consideration for determining reasonable rent under section 12 ;

(e) the fees to be paid for the grant of a certificate and the form of such certificate under sub-section (3) of section 17 ;

(f) the manner and the form in which a receipt is to be given by the landlord under section 26 ;

(g) the manner of determining the reasonable price of land and the period during which the amount of price may be deposited under section 32 ;

(h) the terms and conditions for exchange of lands and the form of certificate to be issued under section 33 ;

(i) the manner of determining debts and liabilities under section 52 ;

(j) the manner of notifying liquidation scheme sanctioned under section 56 ;

(*k*) the conditions subject to which permission to acquire land or interest therein may be granted under section 63;

(*l*) the manner of making inquiry to determine the value of the estate, land or interest acquired and any other matter to be taken into consideration in determining the value under section 66;

(*m*) the other functions of the Tribunal under section 68;

(*n*) the other powers of the Tribunal under section 69;

(*o*) the other procedure to be followed by the Mamlatdar and Tribunal under section 72;

(*p*) the value of the court fee stamp payable on an application to the Mamlatdar or Tribunal or on an application or appeal to the Collector or Bombay Revenue Tribunal under section 77;

(*q*) any other matter which is or may be prescribed under this Act.

(*3*) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

Delegation of powers.

83. The Provincial Government may, subject to such restrictions and conditions as it may impose, by notification in the *Official Gazette*, delegate to any of its officers, not below the rank of an Assistant or Deputy Collector, all or any of the powers conferred on it by this Act.

Summary eviction.

84. Any person unauthorisedly occupying or wrongfully in possession of any land—

(*a*) the transfer of which either by the act of parties or by the operation of law is invalid under the provisions of this Act,

(*b*) the management of which has been assumed under the said provisions, or

(*c*) to the use and occupation of which he is not entitled under the said provisions and the said provisions do not provide for the eviction of such persons,

may be summarily evicted by the Collector.

Bar of jurisdiction.

85. (*1*) No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Mamlatdar or Tribunal, a Manager, the Collector or the Bombay Revenue Tribunal in appeal or revision or the Provincial Government in exercise of their powers of control.

(*2*) No order of the Mamlatdar, the Tribunal, the Collector or the Bombay Revenue Tribunal or the Provincial Government made under this Act shall be questioned in any civil or criminal court.

Bom. II of 1906.

Explanation—For the purposes of this section, a Civil Court shall include a Mamlatdar's Court constituted under the Mamlatdar' Courts Act, 1906.

Control.

86. In all matters connected with this Act, the Provincial Government shall have the same authority and control over the Mamlatdars and the Collectors acting under this Act as they have and exercise over them in the general and revenue administration.

Indemnity.

87. No suit or other legal proceeding shall lie against any person in respect of anything which is in good faith done or intended to be done under this Act.

Act not to apply to certain lands and areas.

88. (*1*) Nothing in the foregoing provisions of this Act shall apply :—

(*a*) to lands held on lease from the Crown, a local authority or a co-operative society ;

(*b*) to lands held on lease for the benefit of an industrial or commercial undertaking ;

(*c*) to any area within the limits of Greater Bombay and within the limits of the municipal boroughs of Poona City and Suburban, Ahmedabad, Sholapur, Surat and Hubli and within a distance of two miles of the limits of such boroughs ; or.

(*d*) to any area which the Provincial Government may, from time to time, by notification in the *Official Gazette*, specify as being reserved for urban non-agricultural or industrial development.

(*2*) Notwithstanding anything contained in sub-section (*1*) the Provincial Government may, by notification published in the *Official Gazette*, direct that any particular land or class of lands in any area shall not be exempt from all or any of the provisions of this Act.

Repeal.

89. (*1*) The enactment specified in the Schedule is hereby repealed to the extent mentioned in the fourth column thereof.

(*2*) But nothing in this Act or any repeal effected thereby—

(*a*) shall affect the amendments made in section 59 of the Bombay Land Revenue Code, 1879, or sections 6 and 9 of the Khoti Settlement Act, 1880 ; Bom. V of 1879. Bom. I of 1880.

(*b*) shall save as expressly provided in this Act, affect or be deemed to affect,

(*i*) any right, title, interest, obligation or liability already acquired, accrued or incurred before the commencement of this Act, or

(*ii*) any legal proceeding or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered before the commencement of this Act,

and any such proceedings shall be continued and disposed of, as if this Act was not passed.

(*3*) Notwithstanding anything contained in sub-section (*2*), all proceedings for the recovery or restoration of the possession of the land under section 7 of the Act so repealed, pending at the date of the commencement of this Act before the Mamlatdar or in appeal before the Collector, shall, notwithstanding anything contained in this section, be deemed to have been instituted and pending before the Mamlatdar or in appeal before the Collector, as the case may be, under this Act and shall be disposed of in accordance with the provisions of this Act.

(*4*) Any appointment, notification, notice, order, rule or form made or issued under the Bombay Tenancy Act, 1939, shall continue to be in force and deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act or rules made thereunder and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act. Bom. XXIX of 1939.

THE SCHEDULE.

Enactment repealed.

(*See* section 89.)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1939	XXIX	The Bombay Tenancy Act, 1939.	The whole except sections 3, 3-A and 4 as modified in the following manner, namely :—

Protected tenants.

3. A tenant shall be deemed to be a protected tenant in respect of any land if—

(*a*) he has held such land continuously for a period of not less than six years immediately preceding either—

(*i*) the first day of January 1938, or

(*ii*) the first day of January 1945; and

(*b*) he has cultivated such land personally during the aforesaid period.

Explanation I.—If the perosn who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, came to hold the same by inheritance or succession from another person or if he has held such land as a tenant and is an heir to such other person, the period during which such other person held such land as a tenant shall be included in calculating the period of six years under this section.

Explanation II.—If the person who held such land on the first day of January 1938 or the first day of January 1945, as the case may be, held as a tenant at any time within six years before the said date from the same landlord in the same village any other land which he cultivated personally, the period during which he held such other land shall be included in calculating the period of six years under this section.

Explanation III.—Where any land is held by two or more persons jointly as tenants, all such persons shall, if any one of them cultivated and continues to cultivate such land personally and if the other conditions specified in this section are fulfilled, be deemed to be protected tenants in respect of such land.

Tenants on expiry of one year from coming into force of Bom. XXVI of 1946 to be deemed protected tenants.

3A. Every tenant shall, from the eighth day of November 1947 be deemed to be a protected tenant for the purposes of this Act and his rights as such protected tenant shall be recorded in the Record of Rights, unless his landlord has prior to the aforesaid date made an application to the Mamlatdar for a declaration that the tenant is not a protected tenant.

Explanation.—A perosn shall not be deemed to be a protected tenant if such person has been on an application made by the owner of the land as provided in section 3-A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a protected tenant.

Bom. XXIX of 1939.

Tenants evicted after 1st April 1937 to be deemed protected tenants.

4. (*1*) Every tenant shall be deemed to be a protected tenant for the purposes of this Act, if he—

(*a*) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1937 and was evicted from such land on or after such date otherwise than by order of a competent authority on any of the grounds specified in section 14 of this Act, or

Year.	No.	Short title.	Extent of repeal.
1	2	3	4

(*b*) held any land and cultivated it personally continuously for a period of not less than six years immediately preceding the first day of April 1944 and was evicted from such land on or after such date otherwise than by order of a competent authority on any of the grounds specified in section 14 of this Act:

Provided that any tenant who had been evicted from the land in consequence of his failure to tender the rent referred to in section 9 of the Bombay Small Holders Relief Act, 1938, as provided therein, shall not be deemed to be a protected tenant for the purposes of this Act, unless he had paid to the landlord such rent in cases falling under clause (*a*) within four months from the date on which this section came into force in the area in which the land is situated and in cases falling under clause (*b*) within six months from the eight day of November 1946. Bom. VIII of 1938.

(2) A person who is deemed to be a protected tenant under sub-section (*1*) shall, if he had intimated in writing to the landlord in cases falling under clause (*a*) of isub-section (*1*) within one year after the coming into force of this section in the area in which the land is situated and in cases falling under clause (*b*) of sub-section (*1*) within one year after the eighth day of November 1946, that he is willing to hold the land on the same terms and conditions on which he held it at the time when he was evicted, be entitled to recover possession of the land—

(*a*) in cases falling under clause (*a*) of sub-section (*1*)—

(*i*) if the land has been leased out by the landlord for a period expiring after the 31st day of May immediately following the date of the coming into force of this section in the area in which the land is situated, from the date on which such lease expires; and

(*ii*) in other cases, from the 1st day of June immediately following the date of the coming into force of this section in the area in which the land is situated;

(*b*) in cases falling under clause (*b*) of sub-section (*1*)—

(*i*) if the land has been leased out by the landlord for a period expiring after 31st day of May 1947 from the date on which such lease expires; and

(*ii*) in other cases from the 1st day of June 1947 and on so recovering possession, he shall, subject to the provisions of this Act, hold the land on the said terms and conditions.

(3) The provisions of this section shall not apply in cases where the landlord is using the land for any of the purposes mentioned in sub-section (*1*) of section 34 of this Act.

THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.

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1. Short title.
2. Amendment of sections 6 and 6A of Act V of 1920.
3. Validation of certain rules and notices.

BOMBAY ACT No. LXVIII OF 1948.[1]

[THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1948.]

[*30th December 1948.*]

An Act to amend the Provincial Insolvency Act, 1920, in its application to the Province of Bombay.

V of 1920. WHEREAS it is expedient to amend the Provincial Insolvency Act, 1920, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Provincial Insolvency (Bombay Amendment) Act, 1948. Short title.

V of 1920. 2. In the Provincial Insolvency Act, 1920,— Amendment of sections 6 and 6A of Act V of 1920.

(*a*) for clause (*i*) of section 6, the following shall be substituted, namely:—

"(*i*) if, after a creditor has served an insolvency notice on him under this Act in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not, within the period specified in the notice which shall not be less than one month, either comply with the requirements of the notice or satisfy the Court that he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which be could not lawfully set up in the suit or proceeding in which the decree or order was made against him."

(*b*) in sub-section (*1*) of section 6A, after the words "or his agent" the words ",or to satisfy the Court that he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him" shall be inserted.

3. The amendments made by this Act shall be deemed to have been made with effect from the 19th day of June 1939 and notwithstanding any judgment of any Court or anything contained in any law,— Validation of certain rules and notices.

V of 1920. (*a*) the rules including the forms relating to insolvency notices made by the High Court under the Provincial Insolvency Act, 1920, before the date of coming into operation of this Act shall be deemed to have been made under the said Act as amended by this Act, and

(*b*) no insolvency notice issued under any of the said rules and no order of adjudication made for non-compliance with any such notice made before the date of coming into operation of this Act shall be called in question in any Court on the ground merely that any of the rules under which or the form in which the notice was issued was not authorised by the provisions of the said Act.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, Part V, page 512.

THE BOMBAY HOUSING BOARD ACT, 1949.

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BOMBAY ACT No. LXIX OF 1948.[1]

[THE BOMBAY HOUSING BOARD ACT, 1948.]

[*30th December 1948.*]

Amended by Bom. 19 of 1949.

An Act to provide for measures to be taken to deal with and satisfy the need of housing accommodation.

WHEREAS it is expedient to take such measures, to make such schemes and to carry out such works as are necessary for the purpose of dealing with and satisfying the need of housing accommodation and with that object in view it is necessary to establish a Board and to make certain other provisions hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Housing Board Act, 1948.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force in such area and on such date as the Provincial Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "adjoining area" means such area as may be specified to be an adjoining area under section 24;

(*2*) "betterment charges" means the charges leviable under section 43;

(*3*) "Board" means the Housing Board constituted under section 3;

(*4*) "building materials" means such commodities or articles as are specified to be building materials for the purposes of this Act by the Provincial Government by notification in the *Official Gazette*;

(*5*) "by-laws" means by-laws made under section 68;

(*6*) "Chairman" means the Chairman of the Board;

(*7*) "Corporation" means the Municipal Corporation of the City of Bombay;

(*8*) "Housing Scheme" means a Housing Scheme made under this Act;

(*9*) "land" includes benefits to arise out of land and things attached to the earth or permanently fastened and things attached to the earth or permanently fastened to anything attached to the earth;

(*10*) "member" means a member of the Board;

(*11*) "prescribed" means prescribed by rules;

(*12*) "programme" means the annual housing programme prepared by the Board under section 26;

(*13*) "regulations" means regulations made under section 67;

(*14*) "rules" means rules made under section 66;

(*15*) "Secretary" means the Secretary of the Board;

(*16*) "Tribunal" means the Tribunal constituted under section 49;

(*17*) "year" means the year commencing on the 1st day of April and ending on the 31st day of March.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Pt. V, page 590.

CHAPTER II.

ESTABLISHMENT OF THE BOARD.

Incorporation.

3. (*1*) With effect from such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf, there shall be established for the purposes of this Act a Board by the name of the Bombay Housing Board.

(*2*) The Board shall be a body corporate having perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable and to contract and do all things necessary for the purposes of this Act.

(*3*) For the purposes of this Act and the Land Acquisition Act, 1894, and the Land Acquisition (Bombay Amendment) Act, 1948, the Board shall be deemed to be a local authority. I of 1894. Bom. IV of 1948.

Constitution of the Board.

4. (*1*) The Board shall consist of the Chairman and four other members appointed by the Provincial Government.

(*2*) Any member of the Board may at any time resign his office by submitting his resignation to the Provincial Government:

Provided that the resignation shall not take effect until it is accepted.

Leave of absence to Chairman.

5. The Provincial Government may from time to time grant to the Chairman such leave as may be admissible under the rules and any person whom the Provincial Government appoints to act for the Chairman during such absence on leave shall, while so acting, be deemed for all purposes of this Act to be the Chairman.

Disqualification for appointment on Board.

6. (*1*) A person shall be disqualified for being appointed or continuing as the Chairman or member of the Board, if he—

(*a*) holds any office or place of profit under the Board,

(*b*) is of unsound mind,

(*c*) is an uncertificated bankrupt or an undischarged insolvent,

(*d*) has directly or indirectly by himself or by any partner, any share or interest in any contract or employment with, by or on behalf of, the Board, or

(*e*) is a Director or a Secretary, Manager or other salaried officer of any incorportated company which has any share or interest in any contract or employment with, by or on behalf of, the Board.

(*2*) A person shall not, however, be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any contract or employment within the meaning of these clauses, by reason only of his or the incorporated company of which he is a Director, Secretary, Manager or other salaried officer having a share or interest in any newspaper in which any advertisement relating to the affairs of the Board is inserted.

(*3*) A person shall not also be disqualified under clause (*d*) or (*e*) of sub-section (*1*) or be deemed to have any share or interest in any incorporated company which has any share or interest in any contract or employment with, by or on behalf of, the Board, by reason only of his being a shareholder of such company: .

Provided that such person discloses to the Provincial Government the nature and extent of the shares held by him.

7. (*1*) Every member shall hold office for a period of three years from the date of his appointment: Term of office and conditions of service of members.

Provided that after the expiry of the period of his appointment a person shall be eligible for re-appointment as a member.

(*2*) Every member shall receive such allowances as may be prescribed.

(*3*) The Chairman shall be a whole time member of the Board. His remuneration and other conditions of service shall be such as may be prescribed.

(*4*) The allowances to the members and the remuneration to the Chairman shall be paid from the fund of the Board.

8. If a member,— Vacancy of a member.

(*a*) becomes subject to any of the disqualifications mentioned in section 6,

(*b*) tenders his resignation in writing to the Provincial Government, or

(*c*) is absent without the permission of the Board from all the meetings of the Board for a period of two successive months,

he shall cease to be a member.

9. Any vacancy of a member of the Board shall be filled in as early as practicable: Vacancy to be filled as early as practicable.

Provided that during any such vacancy the continuing members may act, as if no vacancy had occurred.

10. No disqualification of or defect in the appointment of any person acting as a Chairman or a member of the Board shall be deemed to vitiate any act or proceeding of the Board, if such act or proceeding is otherwise in accordance with the provisions of this Act. Proceedings presumed to be good and valid.

11. If any member of the Board other than the Chairman is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise not involving the vacation of his appointment, the Provincial Government may appoint another person to officiate for him and carry out his functions under this Act or any rule or regulation made thereunder. Temporary absence of members.

12. The Board may appoint a Secretary, a Housing Commissioner and such other officers and servants as it considers necessary for the efficient performance of its functions; Appointment of officers and servants.

Provided that the appointment of the Secretary and the Housing Commissioner and any other officer whose salary exceeds rupees one thousand per mensem shall be subject to the previous approval of the Provincial Government.

13. The remuneration and other conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board shall be such as may be determined by regulations. Conditions of service of officers and servants.

14. (*1*) The Board shall take over and employ such of the existing staff serving for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46 dated 18th January 1947 as the Provincial Government may direct and every person so taken over and employed shall be subject to the provisions of this Act and the regulations made thereunder: Absorption of existing staff of Bombay Provincial Housing Board by the Board.

Provided—

(*a*) that during the period of such employment all matters relating to the pay, leave, retirement, allowances, pensions, provident fund and other conditions of service of the members of the said staff shall be regulated by the Bombay Civil Services Rules or such other rules as may from time to time be made by the Provincial Government,

(*b*) that any such member shall have a right of appeal to the Provincial Government against any order of reduction, dismissal or removal from service, fine or any other punishment.

(*2*) All permanent servants of the said staff taken over and empolyed by the Board under sub-section (*1*) shall have a lien on their posts in the service of the Provincial Government and the period of their service under the Board shall on their reversion to the service of the Provincial Government, be counted for their increments, pension and other matters relating to their service.

General disqualification of all officers and servants.

15. No person who has directly or indirectly by himself or his partner or agent any share or interest in any contract, by or on behalf of the Board, or in any employment under, by or on behalf of the Board otherwise than as an officer or servant thereof, shall become or remain an officer or servant of the Board.

Appointment of Committees.

16. (*1*) The Provincial Government may appoint a Housing Advisory Committee. The functions of the Housing Advisory Committee shall be advisory and such as may be determined by the Provincial Government.

(*2*) Subject to any rules made under section 66, the Board may from time to time appoint one or more other Committees for the purpose of securing the efficient discharge of its functions and in particular for the purpose of securing that the said functions are exercised with due regard to the circumstances and requirements of particular local areas.

Conduct of Business.

Meetings of Board.

17. The Board shall meet and shall from time to time make such arrangements with respect to the day, time, notice, management and adjournment of its meetings as it thinks fit, subject to the following provisions, namely :—

(*a*) an ordinary meeting shall be held once at least every fortnight,

(*b*) the Chairman may, whenever he thinks fit, call special meetings,

(*c*) every meeting shall be presided over by the Chairman and in his absence, by any member chosen by the meeting to preside for the occasion,

(*d*) all questions at any meeting shall be decided by a majority of the members present and in case of equality of votes, the person presiding shall have and exercise a second or casting vote,

(*e*) the minutes of the proceedings of each meeting shall be recorded in a book to be provided for the purpose.

Procedure of Committees.

18. (*1*) The Housing Advisory Committee shall meet to discharge the functions assigned to it in such manner as may be directed by the Provincial Government.

(*2*) Any other Committee appointed under sub-section (*2*) of section 16 shall meet to discharge the functions assigned to it in such manner as may be directed by the Board.

Contracts.

19. The Board may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act. Power to make contracts.

20. (*1*) Every contract shall be made on behalf of the Board by the Chairman : Execution of contract.

Provided that—

(*a*) no contract involving an expenditure of rupees fifteen lacs and more shall be made without the previous sanction of the Provincial Government,

(*b*) no contract involving an expenditure of rupees three thousand and more shall, subject to clause (*a*) above, be made without the previous sanction of the Board.

(*2*) Sub-section (*1*) shall apply to every variation or abandonment of a contract or estimate as well as to an original contract or estimate.

21. Subject to any rules which the Provincial Government may make in this behalf, the Board may by order direct that the power conferred on it under section 20 to sanction a contract shall be exercised by the Housing Commissioner or any other officer specified by it in the order. Delegation of Board's power to sanction contracts.

22. (*1*) Every contract made by the Chairman on behalf of the Board shall, subject to the provisions of this section, be entered into in such manner and form as may be prescribed. Further provisions as to execution of contracts.

(*2*) A contract not executed as provided in this section and the rules made thereunder shall not be binding on the Board.

CHAPTER III.

HOUSING SCHEMES.

23. Subject to the provisions of this Act and subject to the control of the Provincial Government, the Board may incur expenditure and undertake works in any area to which this act applies for the framing and execution of such housing schemes as it may consider necessary from time to time [1][or as may be entrusted to it by the Provincial Government.] Duty of Board to undertake housing schemes.

24. Notwithstanding anything contained in any other law for the time being in force, a housing scheme may provide for all or any of the following matters, namely :— Matters to be provided for by housing schemes.

(*a*) the acquisition by purchase, exchange or other wise of any property necessary for or affected by the execution of the scheme ;

(*b*) the laying or relaying out of any land comprised in the scheme ;

(*c*) the distribution or redistribution of sites belonging to owners of property comprised in the scheme ;

(*d*) the closure or demolition of dwellings or portions of dwellings unfit for human habitation ;

(*e*) the demolition of obstructive buildings or portions of buildings ;

(*f*) the construction and reconstruction of buildings ;

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[1] These words were inserted by Bom. 19 of 1949, s. 2.

(*g*) the sale, letting or exchange of any property comprised in the scheme;

(*h*) the construction and alteration of streets and back lanes;

(*i*) provision of the draining, water-supply and lighting of the area included in the scheme;

(*j*) the provision of parks, playing-fields and open spaces for the benefit of any area comprised in the scheme or any adjoining area, and the enlargement of existing parks, playing-fields, open spaces and approaches;

(*k*) the provision of sanitary arrangements required for the area comprised in the scheme, including the conservation and prevention of any injury or contamination to reverse or other sources and means of water supply;

(*l*) the provision of accommodation for any class of inhabitants;

(*m*) the advance of money for the purposes of the scheme;

(*n*) the provision of facilities for communication and transport;

(*o*) the collection of such information and statistics as may be necessary for the purposes of this Act;

(*p*) any other matter for which, in the opinion of the Provincial Government, it is expedient to make provision with a view to provide housing accommodation and to the improvement or development of any area comprised in the scheme or any adjoining area or the general efficiency of the scheme.

Explanation.—For the purposes of this section, the Provincial Government may, on the recommendation of the Board, by notification in the *Official Gazette*, specify such area surrounding or adjoining the area included in a housing scheme to be the adjoining area.

No housing scheme to be made for area included in improvement scheme or be inconsistent with town planning scheme.

25. (*1*) No housing scheme shall be made under this Act for any area for which an improvement scheme has been sanctioned by the Provincial Government under Chapter XIIA of the City of Bombay Municipal Act, 1888, nor any housing scheme made under this Act contain anything which is inconsistent with any of the matters included in a town planning scheme sanctioned by the Provincial Government under the Bombay Town Planning Act, 1915. Bom. III of 1888. Bom. I of 1915.

(*2*) If any dispute arises whether a housing scheme made under this Act includes any area included in an improvement scheme sanctioned under the City of Bombay Municipal Act, 1888, or contains anything inconsistent with any matter included in a town planning scheme sanctioned under the Bombay Town Planning Act, 1915, the decision of the Provincial Government shall be final. Bom. III of 1888. Bom. I of 1915.

Preparation and submission of annual housing programme, budget and establishment schedule.

26. (*1*) Before the first day of December in each year, the Board shall prepare and forward—

(*i*) a programme,

(*ii*) a budget for the next year,

(*iii*) a schedule of the staff of officers and servants already employed and to be employed during the next year,

to the Provincial Government in such form as may be prescribed.

(*2*) The programme shall contain—

(*a*) such particulars of housing schemes which the Board proposes to execute whether in part or whole during the next year, as may be prescribed;

(*b*) the particulars of any undertaking which the Board proposes to organize or execute during the next year for the purpose of the production of building materials; and

(*c*) such other particulars as may be prescribed.

(*3*) The budget shall contain a statement showing the estimated receipts and expenditure on capital and revenue accounts for the next year.

27. (*1*) The Board shall before forwarding the programme to the Provincial Government under section 26 publish a draft of the programme in the *Official Gazette* and in such other manner as may be prescribed.

Programme to be published for inviting suggestion and objections.

(*2*) If within three weeks from the date of such publication any person communicates in writing to the Board any suggestion or objection relating to such programme the Board shall consider such suggestion or objection and may modify such programme as it thinks fit.

(*3*) The Board shall then forward the programme, the budget and the schedule of the staff of officers and servants to the Provincial Government for sanction as required by section 26.

28. The Provincial Government may sanction the programme, the budget and the schedule of the staff of officers and servants forwarded to it with such modifications as it deems fit.

Sanction to programme, budget and establishment schedule.

29. The Provincial Government shall publish the programme sanctioned by it under section 28 in the *Official Gazette.*

Publication of sanctioned programme.

30. The Board may, at any time, during the year, in respect of which a programme has been sanctioned under section 28 submit a supplementary programme and budget to the Provincial Govenment and the provisions of sections 27, 28 and 29 shall apply to such supplementary programme.

Supplementary programme and budget.

31. The Board may at any time vary any programme or any part thereof included in the programme sanctioned by the Provincial Government :

Variation of programme by Board after it is sanctioned.

Provided that no such variation shall be made if it involves an expenditure in excess of 10 per cent. of the amount as originally sanctioned for the execution of any housing scheme included in such programme or affects its scope or purpose.

32. After the programme has been sanctioned and published by the Provincial Government under sections 28 and 29 the Board shall, subject to the provisions of sections 31, proceed to execute the housing schemes included in the programme.

Sanctioned housing schemes to be executed.

33. (*1*) Before proceeding to execute any housing scheme under section 32 the Board shall, by notification in the *Official Gazette,* publish the scheme. The notification shall specify that the plan, showing the area which it is proposed to include in the housing scheme and the surrounding lands, shall be open to inspection of the public at all reasonable hours at the office of the Board.

Publication of housing scheme in the *Official Gazette.*

(*2*) If within two weeks f om the date of the publication of the housing scheme any person communicates in writing to the Board any suggestion or objection relating to the scheme, the Board shall consider such suggestion or objection and may modify the scheme as it thinks fit.

(*3*) The Board shall then by notification in the *Official Gazette* publish the final scheme. The notification shall specify that the plan, showing the area included in the final scheme and the surrounding lands and other particulars as may be prescribed shall be open to inspection of the public at all reasonable hours at the office of the Board.

(*4*) The publication of a notification in the *Official Gazette* under sub-section (*3*) shall be conclusive evidence that the said scheme has been duly framed.

Transfer to the Board for purposes of housing scheme of land vested in the Corporation, or a municipality or local board.

34. (*1*) Whenever any street, square or other land, or any part thereof, which—

(*a*) is situated in the City of Bombay and is vested in the Municipal Corporation of the City of Bombay, or

(*b*) is situated in any part of a municipality constituted under the Bombay Municipal Boroughs Act, 1925, or the Bombay District Municipal Act, 1901, and is vested in that municipality, or

(*c*) is situated in any area included within the jurisdiction of a local board constituted under the Bombay Local Boards Act, 1923, and is vested in that local board,

Bom. XVIII of 1925. Bom. III of 1901. Bom. VI of 1923.

is within the area included in the programme sanctioned by the Provincial Government and is required for the purposes of such housing scheme, the Board shall give notice accordingly to the Corporation or municipality or local board, as the case may be.

(*2*) Where the Corporation, municipality or local Board concurs, such street, square or other land or part thereof shall vest in the Board.

(*3*) Where there is any dispute the matter shall be referred to she Provincial Government. The Provincial Government shall, after hearing the Corporation, municipality or local board concerned, decide the matter. The decision of the Provincial Government shall be final. If the Provincial Government decides that such street, square or land shall vest in the Board, it shall vest accordingly.

(*4*) Nothing in this section shall affect the rights or powers of the Corporation, municipality or local board in or over any drain or water work in such street, square or land.

Compensation in respect of land vested in the Board.

35. (*1*) Where any land vests in the Board under the provisions of section 34 and the Board makes a declaration that such land shall be retained by the Board only until it revests in the Corporation, the municipality or the local board as part of a street or an open space under section 38, no compensation shall be payable by the Board to the Corporation, the municipality or the local board, as the case may be, in respect of that land.

(*2*) Where any land vests in the Board under section 34 and no declaration is made under sub-section (*1*) in respect of the land, the Board shall pay to the Corporation, the municipality or the local board, as the case may be, as compensation a sum equal to the value of such land.

(*3*) If, in any case where the Board has made a declaration in respect of any land under sub-section (*1*), the Board retains or disposes of the land contrary to the terms of the declaration so that the land does not revest in the Corporation, the municipality or the local board, as the case may be, the Board shall pay to the Corporation, the municipality or the local board compensation in respect of such land in accordance with the provisions of sub-section (*2*).

Power of Board to turn or close public street vested in it.

36. (*1*) The Board may turn, divert, discontinue the public use of, or permanently close, any public street vested in it or any part thereof.

(*2*) Whenever the Board discontinues the public use of, or permanently closes, any public street vested in it or any part thereof, it shall ,as far as practicable, provide some other reasonable means of access to be substituted in lieu of the use, by those entitled, of the street or part thereof and pay reasonable compensation to every person who is entitled, otherwise than as a mere member of the public, to use such street or part as a means of access and has suffered damage from such discontinuance or closing.

(*3*) In determining the compensation payable to any person under sub-section (*2*) the Board shall make allowance for any benefit accruing to him from the construction, provision or improvement of any other public street at or about the same time that the public street or part thereof, on account of which the compensation is paid, is discontinued or closed.

(*4*) When any public street vested in the Board is permanently closed under sub-section (*1*), the Board may sell or lease so much of the same as is no longer required.

Reference to Tribunal in case of dispute under section 35 or 36.

37. If there is any dispute as to whether any compensation is payable under section 35 or as to the amount of compensation payable under section 35 or section 36, as the case may be, the matter shall be referred to the Tribunal.

Vesting in Corporation, municipality or local board of streets laid out or altered and open space provided by the Board under housing scheme.

38. (*1*) Whenever the Provincial Government is satisfied—

(*a*) that any street laid out or altered by the Board has been duly levelled, paved, metalled, flagged, channelled, sewered and drained in the manner provided in the programme sanctioned by the Provincial Government under section 28, and

(*b*) that such lamps, lamp-posts and other appartuas as the Corporation, the municipality or the local board, as the case may be, considers necessary for the lighting of such street and as ought to be provided by the Board have been so provided, and

(*c*) that water and other sanitary conveniences have been duly provided in such street,

the Provincial Government may declare the street to be a public street, and the street shall thereupon vest in the Corporation, municipality or local board, as the case may be, and shall thenceforth be maintained, kept in repair, lighted and cleaned by the Corporation, municipality or local board.

(*2*) When any open space for purposes of ventilation or recreation has been provided by the Board in executing any housing scheme, it shall on completion be transferred to the local authority concerned, by resolution of the Board, and shall thereupon vest in, and be maintained at the expense of, the local authority :

Provided that the local authority may require the Board before any such open space is so transferred to enclose, level, turf, drain and lay-out such space and provide footpaths therein, and if necessary, to provide lamps and other apparatus for lighting it.

(*3*) If any difference of opinion arises between the Board and the Corporation, municipality or local board in respect of any matter referred to in the foregoing provisions of this section, the matter shall be referred to the Provincial Government whose decision shall be final.

Other duties of the Board.

39. It shall be the duty of the Board to take measures with a view to expediting and cheapening construction of buildings and the Board may for that purpose do all things for—

(*a*) unification, simplification and standardisation of building materials ;

(*b*) encouraging pre-fabrication and mass production of house com onents ;

(*c*) organising or undertaking the production of building materials required for the housing schemes ;

(*d*) encouraging reserach for discovering cheap building materials and evolving new methods of economic construction ;

(*e*) securing a steady and sufficient supply of workmen trained in the work of construction of buildings.

Board to assume management of requisitioned lands.

40. The Board shall, subject to the general control of the Provincial Government, assume management of all such lands requisitioned by or under the authority of the Provincial Government and continued subject to requisition under the Requisitioned Land (Continuance of Powers) Act, 1947, and also of such lands requisitioned by or under the authority of the Provincial Government under the Bombay Land Requisition Act, 1948, as the Provincial Government may direct. XVII of 1947. Bom. XXXIII of 1948.

Reconstitution of plots.

41. A housing scheme may provide—

(*a*) for the formation of a reconstituted plot by the alterations of the boundaries of an original plot ;

(*b*) with the consent of the owners that two or more original plots each of which is held in ownership in severalty or in joint ownership shall, with or without alteration of boundaries be held in ownership in common as a reconstituted plot ;

(*c*) for the allotment of a plot to any owner dispossessed of land in furtherance of the housing scheme ; and

(*d*) for the transfer of ownership of a plot from one person to another.

Power to exempt schemes from provisions of sections 26 to 33.

41A. [1][The Provincial Government may, by general or special order published in the *Official Gazette*, exempt any housing scheme entrusted by it to the Board from all or any of the provisions of sections 26 to 33 (both inclusive) subject to such conditions, if any, as it may impose or may direct that any such provision shall apply to such scheme with such modifications as may be specified in the order.]

CHAPTER IV.

Acquisition and Disposal Land

Power to purchase or lease by agreement.

42. (*1*) The Board may enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith.

(*2*) The Board may also take steps for the compulsory acquisition of any land or any interest therein required for the execution of a housing scheme in the manner provided in the Land Acquisition Act, 1894, as modified by this Act and the acquisition of any land or any interest thereto for the purposes of this Act shall be deemed to be acquisition for a public purpose within the meaning of the Land Acquisition Act, 1894. I of 1894. I of 1894.

Betterment charges.

43. (*1*) When by the making of a housing scheme any land in the area comprised in the scheme will in the opinion of the Board be increased in value, the Board in framing the scheme may declare that betterment charges shall be payable by the

[1] Section 41A was inserted by Bom. 19 of 1949, s. 3.

owner of the land or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.

(2) Such increase in value shall be the amount by which the value of the land on the completion of the execution of the scheme estimated as if the land were clear of the buildings exceeds the value of the land prior to the execution of the scheme estimated in like manner and the betterment charges shall be one-half of such increase in value.

(3) Such betterment charges shall also be leviable in respect of any land not comprised in the scheme but adjacent to the area comprised in the scheme.

Notice to persons liable for betterment charges.

44. (1) The Board shall give notice in the prescribed form to any person who is the owner of or has interest in the land in respect of which the betterment charges are to be levied and shall give such person an opportunity to be heard.

(2) After hearing such person or if such person fails to appear after the expiry of the period within which such person is required to appear before the Board, the Board shall proceed to assess the amount of betterment charges.

(3) Where the assessment of betterment charges proposed by the Board is accepted by the person concerned within the period prescribed, the assessment shall be final.

(4) If the person concerned does not accept the assessment proposed by the Board, the matter shall be referred to the Tribunal.

(5) The Tribunal shall, after holding an inquiry and after hearing the person concerned, assess the amount of the betterment charges payable by the person.

Agreement for payment of betterment charges.

45. (1) Any person liable to pay betterment charges in respect of any land may at his option, instead of paying the same to the Board, execute an agreement with the Board to leave the payment outstanding as a charge on his interest in the land, subject to the payment in perpetuity of interest at such rate as may be prescribed.

(2) Every payment due from any person in respect of betterment charges and every charge referred to in sub-section (1) shall, notwithstanding anything contained in any other enactment and notwithstanding the execution of any mortgage or charge, created either before or after the commencement of this Act, be the first charge upon the interest of such person in such land.

Recovery of betterment charges.

46. All sums payable in respect of any land by any person in respect of betterment charges under section 43 or by any person under an agreement under section 45 shall be recoverable on behalf of the Board as an arrear of land revenue.

Power to dispose of land.

47. Subject to any rules made by the Provincial Government under this Act, the Board may retain, lease, sell, exchange or otherwise dispose of, any land, building or other property vesting in it and situate in the area comprised in any housing scheme sanctioned under this Act.

Disputes regarding reconstitution of plots.

48. (1) Where by the making of a housing scheme, any plots comprised in the area included in the scheme are reconstituted or any person is dispossessed, any person affected by such reconstitution or dispossession may apply to the Board for compensation. The Board may after making such inquiry as it thinks fit decide whether the applicant is entitled to any compensation and if so to what extent. If the person is dissatisfied with the decision of the Board in the matter, he may inform the Board accordingly. The Board shall thereupon refer the matter to the Tribunal.

(2) The Tribunal shall then after making an inquiry determine the amount of compensation and direct the Board to pay the same to the person entitled.

CHAPTER V.

TRIBUNAL.

Constitution of the Tribunal.

49. (*1*) The Tribunal shall consist of a President and two assessors. In Greater Bombay the President shall be such Judge of the Bombay City Civil Court as may be selected by the Provincial Government and elsewhere the District Judge. The assessors shall be appointed by the Provincial Government.

(*2*) Each assessor of the Tribunal shall receive such remuneration as the Provincial Government may determine. The remuneration shall be paid by the Board to the President of the Tribunal for distribution.

Duties of the Tribunal.

50. The Tribunal shall—

(*a*) decide whether any compensation is payable under section 35 ;

(*b*) decide the amount of compensation in matters referred to it under section 37 ;

(*c*) decide disputes relating to betterment charges referred to it under section 44 ;

(*d*) decide disputes relating to the reconstitution of plots referred to it under section 48 and the amount of compensation to be awarded in consequence thereof.

(*e*) decide such other matters as may be prescribed by rules made in this behalf.

Powers of President.

51. (*1*) In the hearing and decision of any matters referred to the Tribunal under this Act,—

(*a*) if there is any disagreement between the President and the assessors of the Tribunal on a point of fact, the opinion of the majority shall prevail ; and

(*b*) if there is any disagreement between the President and the assessors of the Tribunal on a point of law or procedure, the assessors shall be bound by the opinion of the President.

(*2*) The decision of the President as to what is the question of law or fact shall be final.

Powers of and procedure before Tribunal.

52. (*1*) In making inquiries under sections 35, 37, 44 and 48, the Tribunal shall have and exercise the same powers as are vested in a Civil Court in respect of—

(*a*) a proof of facts by affidavits ;

(*b*) summoning and enforcing the attendance of any person and examining him on oath ;

(*c*) compelling the production of documents ; and

(*d*) issuing commissions for the examination of witnesses.

(*2*) In all proceedings before the Tribunal, the Tribunal shall follow the procedure as may be prescribed by rules made by the Provincial Government in this behalf.

(*3*) Every order made by the Tribunal for the payment of money except that for the recovery of which provision has been made in section 46 and for the delivery of the possession or removal of any structure shall be enforced by the Bombay City Civil Court in Greater Bombay and elsewhere by the District Court in the jurisdiction of which the land comprised in the housing scheme is situate as if it was the decree of the said Court.

(*4*) The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code. XLV of 1860.

Decision of Tribunal to be final.

53. The decision of the Tribunal on any matter referred to it under this Act shall be final and shall not be questioned in any court of law.

CHAPTER VI.

FINANCE, ACCOUNTS AND AUDIT.

Expenditure etc. till the Board is established.

54. (*1*) All debts and expenditure incurred, all contracts entered into and all matters and things engaged to be done by, with or for the Provincial Government for the purposes of the Bombay Provincial Housing Board constituted by Government Resolution, Political and Services Department, No. 459/46, dated 18th January 1947 before and up to the date of the establishment of the Board under this Act shall be deemed to have been incurred, entered into or engaged to be done by, with or for the Board ; and all suits and other legal proceedings instituted or which may be instituted by or against the Provincial Government shall be continued or instituted by or against the Board, as the case may be.

(*2*) All expenditure which the Provincial Government shall, not later than six months from the date of the establishment of the Board, declare to have been incurred on capital account in connection with the purposes of this Act shall be deemed to be a loan advanced to the Board on the date of such declaration.

(*3*) All the assets entrusted to the Bombay Provincial Housing Board referred to in sub-section (*1*) for the purposes referred to in the Government Resolution specified in the said sub-section and all assets acquired by the expenditure referred to in sub-section (*2*) shall upon the declaration made by the Provincial Government under sub-section (*2*) vest in the Board for the purposes of this Act.

1 of 1894.

(*4*) All proceedings under the Land Acquisition Act, 1894, pending on the date of the coming into force of this Act in any area for the acquisition of land situated in the said area for the purposes of the Bombay Provincial Housing Board referred to in sub-section (*1*) shall be deemed to be proceedings for acquisition of such land for the purposes of the Board under this Act.

Board's fund.

55. (*1*) The Board shall have its own fund.

(*2*) The Board may accept grants, subventions, donations and gifts from the Central or Provincial Government or a local authority or any individual or body, whether incorporated or not for all or any of the purposes of this Act.

(*3*) All moneys received by or on behalf of the Board by virtue of this Act, all proceeds of land or any other kind of property sold by the Board, all rents, betterment charges and all interest, profits and other moneys accruing to the Board shall constitute the fund of the Board.

(*4*) Except as otherwise directed by the Provincial Government, all moneys and receipts specified in the foregoing provisions and forming part of the fund of the Board shall be deposited in the Reserve Bank of India or in any scheduled bank or invested in such securities as may be approved by the Provincial Government.

(*5*) Such account shall be operated upon by such officers as may be authorised by the Board.

11 of 1934.

Explanation.—For the purposes of this section, the Reserve Bank of India shall mean the Reserve Bank of India constituted under the Reserve Bank of India Act, 1934, and a scheduled bank shall mean a bank included in the Second schedule to the said Act.

Application of the fund.

56. All property, fund and all other assets vesting in the Board shall be held and applied by it, subject to the provisions and for the purposes of this Act.

Expenditure in case of urgency.

57. (*1*) Where in the opinion of the Board, circumstances of extreme urgency have arisen, it shall be lawful for the Board to make in any year,—

(*a*) recurring expenditure not exceeding twenty-five thousand rupees,

(*b*) non-recurring expenditure not exceeding one lac of rupees,

notwithstanding the fact that such expenditure has not been included in its annual programme or supplementary programme sanctioned by the Provincial Government or the variation of the programme made under section 31.

(*2*) where any sum is expended under circumstances of extreme urgency as provided in sub-section (*1*), a report thereof indicating the scarce from which it is proposed to meet the expenditure shall be made by the Board as soon as practicable to the Provincial Government.

Subventions and loans to the Board.

58. (*1*) The Provincial Government may from time to time make subventions to the Board for the purposes of this Act on such terms and conditions as the Provincial Government may determine.

(*2*) The Provincial Government may from time to time advance loans to the Board on such terms and conditions not inconsistent with the provisions of this Act as the Provincial Government may determine.

Power of Board to borrow.

59. (*1*) The Board may from time to time, with the previous sanction of the Provincial Government and subject to the provisions of this Act and to such conditions as may be prescribed in this behalf borrow any sum required for the purposes of this Act.

(*2*) The rules made by the Provincial Government for the purposes of this section may empower the Board to borrow by the issue of debentures and to make arrangements with bankers.

(*3*) All debentures issued by the Board shall be in such form as the Board, with the sanction of the Provincial Government, may from time to time determine.

(*4*) Every debenture shall be signed by the Chairman and one other member of the Board.

(*5*) Loans borrowed and debentures issued under this section may be guaranteed by the Provincial Government as to the repayment of principal and the payment of interest at such rate as may be fixed by the Provincial Government.

Accounts and audit.

60. (*1*) The Board shall cause to be maintained proper books of accounts and such other books as the rules may require and shall prepare in accordance with the rules an annual statement of accounts.

[1][(*2*) The Board shall cause its accounts to be audited annually by such person as the Provincial Government may direct.]

(*3*) As soon as the accounts of the Board have been audited, the Board shall send a copy thereof together with a copy of the report of the auditor thereon to the Provincial Government; and shall cause the accounts to be published in the prescribed manner and place copies thereof on sale at a reasonable price.

(*4*) The Board shall comply with such directions as the Provincial Government may after perusal of the report of the auditor think fit to issue.

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[1] This sub-section was substituted for the original by Bom. 19 of 1949, s. 4.

CHAPTER VII.

MISCELLANEOUS

61. The Board shall, before such date and in such form and at such interval as may be prescribed, submit to the Provincial Government a report on such matters as may be prescribed, and the Provincial Government shall cause such report to be published in the *Official Gazette.* Reports.

62. The Board shall also submit to the Provincial Government such statistics, returns, particulars or statements in regard to any proposed or existing housing schemes at such times and in such form and manner as may be prescribed or as the Provincial Government may from time to time direct. Other statements and returns.

63. The Chairman or any person either generally or specially authorised by the Chairman in this behalf may, with or without assistants or workmen, enter into or upon any land, in order— Power of entry.

(*a*) to make any inspection, survey, measurement, valuation or inquiry;
(*b*) to take levels;
(*c*) to dig or bore into the sub-soil;
(*d*) to set boundaries and intended lines of work;
(*e*) to mark such levels, boundaries and line of works and cutting trenches; or
(*f*) to do any other thing;

whenever it is necessary to do so for any of the purposes of this Act or any rules made or scheme sanctioned thereunder:

Provided as follows:

(*i*) no such entry shall be made between sunset and sunrise;

(*ii*) no dwelling house and no public building which is used as a dwelling place, shall be so entered, unless with the consent of the occupier thereof, and without giving the said occupier at least twenty-four hours previous written notice of the intention to make such entry;

(*iii*) sufficient notice shall in every instance be given, even when any premises may otherwise be entered without notice, to enable the inmates of any apartment appropriated to females to remove themselves to some part of the premises where their privacy will not be disturbed;

(*iv*) due regard shall always be had, so far as may be compatible with the exigencies of the purpose for which the entry is made, to the social and religious usages of the occupants of the premises entered.

64. No person shall commence any suit against the Board or against any officer or servant of the Board or any person acting under the orders of the Board for anything done or purporting to have been done in pursuance of this Act, without giving to the Board, officer or servant or person two months' previous notice in writing of the intended suit and of the cause thereof, nor after six months from the date of the act complained of. Notice of suit against Board, etc.

And in the case of any such suit for damages, if tender of sufficient amends shall have been made before the action was brought, the plaintiff shall not recover more than the amount so tendered and shall pay all costs incurred by the defendant after such tender.

Triennial valuation of assets and liabilities of the Board.

65. The Board shall triennially have a valuation of its assets and liabilities made by a valuer appointed with the approval of the Provincial Government:

Provided that it shall be open to the Provincial Government to direct a valuation to be made at any time it may consider necessary.

Power to make rules.

66. (*1*) The Provincial Government may, by notification in the *Official Gazette* and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made for all or any of the following purposes, namely :—

(*a*) the allowances of members and remuneration and conditions of service of the Chairman under section 7;

(*b*) the manner and form in which contracts shall be entered into under section 22;

(*c*) the form of annual housing programme, budget and schedule of staff of officers and servants, particulars of housing schemes and other particulars to be contained in the programme under section 26;

(*d*) the other manner of publication of the draft of the programme under section 27;

(*e*) the form of notice under section 44;

(*f*) the rate of interest under section 45;

(*g*) the other matters to be decided by the Tribunal under section 50;

(*h*) the procedure to be followed by the Tribunal under section 52;

(*i*) the conditions subject to which the Board may borrow any sum under section 59;

(*j*) the manner of preparation, maintenance and publication of accounts under section 60;

(*k*) the date before which, the form in which, the interval at which and the matters on which reports shall be submitted under section 61;

(*l*) the time at which and the form and manner in which statistics, returns, particulars and statements shall be submitted under section 62;

(*m*) any other matter which is or may be prescribed under this Act.

Regulations.

67. The Board may from time to time, with the previous sanction of the Provincial Government, make regulations consistent with this Act and with any rules made under this Act—

(*a*) for the management and use of buildings constructed under any housing scheme;

(*b*) the principles to be followed in allotment of tenements and premises;

(*c*) the remuneration and conditions of service of the Secretary, Housing Commissioner and other officers and servants of the Board under section 13;

(*d*) for regulating its procedure and the disposal of its business.

68. (*1*) The Board may make by-laws, not inconsistent with this Act, which may be necessary or expedient for the purpose of carrying out its duties and functions under this Act. Power to make by-laws.

(*2*) A by-law made under this section may provide that a contravention thereof shall be an offence.

(*3*) No by-law made by the Board shall come into force until it has been confirmed by the Provincial Government with or without modification.

(*4*) All by-laws made under this section shall be published in the *Official Gazette*.

69. Whoever contravenes a by-law made under section 68 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both. Penalty for contravention of by-laws.

70. If any person —

(*a*) obstructs, or molests any person with whom the Board has entered into a contract, in the performance or execution by such person of his duty or of any thing which he is empowered or required to do under this Act, or Penalty of obstructing, etc.

(*b*) removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorised under this Act,

he shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

71. Unless otherwise expressly provided, no Court shall take cognisance of any offence punishable under this Act except on the complaint of, or upon information received from, the Board or some person authorised by the Board by general or special order in this behalf. Authority for prosecution.

72. All members, officers and servants of the Board shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code. Members, officers and servants of the Board to be public servants.

XLV of 1860.

73. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or purported to be done under this Act. Protection of action taken under this Act.

74. (*1*) The Provincial Government may, by notification in the *Official Gazette*, declare that, with effect from such date as may be specified in the notification, the Board shall be dissolved : Dissolution of the Board.

Provided that no such declaration shall be made by the Provincial Government unless a resolution to that effect has been moved in and passed by the Bombay Legislative Assembly.

(*2*) With effect from the date specified in the notification under sub-section (*1*)—

(*a*) all properties, funds and dues which are vested in or realizable by the Board shall vest in and be realizable by the Provincial Government,

(*b*) all liabilities enforceable against the Board shall be enforceable against the Provincial Government to the extent of the properties, funds and dues vested in and realized by the Provincial Government.

(*3*) Nothing in this section shall affect the liability of the Provincial Government in respect of loans or debentures guaranteed under sub-section (*5*) of section 59.

Amendment of Bom. III of 1888, Bom. I of 1915 and Bom. XXXI of 1948.

75. The enactments mentioned in the third column of the Schedule appended to this Act are hereby amended to the extent and in the manner mentioned in the fourth column thereof.

SCHEDULE.

(*Section 75.*)

	Year.	No.	Short title.	Amendments.	
	1	2	3	4	
No improvement schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.	1888	III	The City of Bombay Municipal Act, 1888.	After section 354C, the following new section shall be inserted, namely :— "354CC. Notwithstanding anything contained in this Chapter, no improvement scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948".	Bom. LXIX of 1948.
No town planning schemes for areas for which housing schemes sanctioned under Bom. LXIX of 1948.	1915	I	The Bombay Town Planning Act, 1915.	After section 8, the following new section shall be inserted, namely :— "8A. Notwithstanding anything contained in this Act, no town planning scheme shall be made for any area for which a housing scheme has been sanctioned under the provisions of the Bombay Housing Board Act, 1948".	Bom. LXIX of 1948.
Delegation of Controller's powers to Housing Board constituted under Bom. LXIX of 1948.	1948	XXXI	The Bombay Building (Control on Erection) Act, 1948.	After section 14, the following new sections shall be inserted, namely :— "14A. Notwithstanding anything contained in this Act, the Provincial Government may direct that the powers conferred and duties imposed upon the Controller under this Act, shall in the area in which the Bombay Housing Board Act, 1948, has come into force, be exercised and performed by the Housing Board constituted under the said Act."	Bom. LXIX of 1948.

THE BOMBAY CHILDREN ACT, 1948.

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BOMBAY ACT No. LXXI OF 1948.[1]

[THE BOMBAY CHILDREN ACT, 1948.]

[*31st December 1948.*]

An Act to consolidate and amend the law for the custody, protection, treatment and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the Province of Bombay.

WHEREAS it is expedient to consolidate and amend the law for the custody, protection, treatment and rehabilitation of children and youthful offenders and for the trial of youthful offenders in the Province of Bombay and for certain other purposes specified herein ; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title and extent.

1. (*1*) This Act may be called the Bombay Children Act, 1948.

(*2*) It extends to the whole of the Province of Bombay.

Commencement.

2. Section 1 shall come into force at once. The rest of the Act, or any provision thereof, shall come into force in any area on such date as the Provincial Government may, by notification in the *Official Gazette*, specify.

Saving.

3. The Provincial Government may, by notification in the *Official Gazette*, direct that all or any of the provisions of the Act shall not apply to any class of children or youthful offenders in the whole of the Province or in any particular area.

Definitions.

4. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " adult " means a person who is not a child ;

Bom. XXIII of 1945.

(*b*) " begging " means begging as defined in the Bombay Beggars Act, 1945 ;

Bom. XI of 1923.

(*c*) " brothel " means a brothel as defined in the Bombay Prevention of Prostitution Act, 1923.

(*d*) " certified school " means an industrial school established or any other school or institution certified by the Provincial Government under section 25 ;

(*e*) " child " means a boy or a girl who has not attained the age of sixteen years ;

II of 1930.

(*f*) "dangerous drug " means any article defined as " dangerous drug " in the Dangerous Drugs Act, 1930 ;

(*g*) " final order " means an order passed by a juvenile court or any court empowered under section 8 to exercise the powers of a juvenile court, under the following sections, namely :—45 to 47, 71 to 76, 79,81 to 84, 90 to 92, 101 and 103 ;

(*h*) " fit person " includes a fit person institution which in relation to the care of any child means any association or body of individuals whether incorporated or not established for or having for its object the reception or protection of children or the prevention of cruelty to children and which undertakes to bring up or to give facilities for bringing up any child entrusted to its care in conformity with the religion of its birth ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 421.

(*i*) "guardian" in relation to a child or youthful offender includes any person who in the opinion of the court having cognizance of any proceedings in relation to the child or youthful offender has for the time being the actual charge of, or control over, the said child or youthful offender;

(*j*) "immoral behaviour" includes any act or conduct which is indecent or obscene;

(*k*) "Juvenile Court" means a court established under section 7 of this Act;

(*l*) "place of safety" includes a remand home, or any other sutiable place or institution, the occupier or manager of which is willing temporarily to receive a child or where such remand home or other suitable place or institution is not available, in the case of a male child only, a police station in which arrangements are available or can be made for keeping children in custody separately from other offenders;

(*m*) "prescribed" means prescribed by rules made under this Act;

(*n*) "probation of good conduct" means the release of a youthful offender on probation of good conduct on his personal recognizance. The 'expression probation of good conduct order' shall be construed accordingly;

(*o*) "prostitution" means offering of the body for indiscriminate lewdness, for hire or otherwise, notwithstanding anything contained in the Bombay Prevention of Prostitution Act, 1923; Bom. XI of 1923.

(*p*) "society" means a body or association of individuals, whether incorporated or not;

(*q*) "supervision" means the placing of a child under the control of a probation officer or other person for the purpose of securing proper care and protection of the child by his parent, guardian, relation or any other fit person to whose care the child has been committed. The expression 'supervision order' shall be construed accordingly;

(*r*) "voluntary home" means any place for the reception of children maintained wholly or partly by voluntary contributions; and

(*s*) "youthful offender" means any child who has been found to have committed an offence.

(2) Words and expressions used and not defined in this Act but defined in the Code of Criminal Procedure, 1898, shall have the meanings assigned to them in that Code. V of 1898.

Continuation of proceedings against child on his attaining specified age.

5. For the purposes of this Act, a person shall be deemed to be a child, if at the time of the initiation of any proceedings against him under this Act or at the time of his arrest in connection with which any proceedings are initiated against him under this Act, such person has not attained the age specified in clause (*e*) of section 4:

Provided that if during the course of the proceedings under this Act such person attains the age specified in the said clause, the proceedings already commenced shall be continued and orders may be passed in respect of such person under this Act as if such person was a child notwithstanding anything to the contrary in this Act.

Reformatory Schools Act, 1897, and certain provisions of Code of Criminal Procedure 1898, not to apply.

6. The provisions of the Reformatory Schools Act, 1897, and of sections 29B and 399 of the Code of Criminal Procedure, 1898, shall cease to apply to any area in which Parts II to XI of this Act have been brought into operation. VIII of 1897. V of 1898.

PART II.

POWERS AND FUNCTIONS OF COURTS HAVING JURISDICTION UNDER THE ACT.

7. For the purposes of this Act, the Provincial Government may, by notification in the *Official Gazette*, establish one or more juvenile courts for any local area. Juvenile Courts.

8. The powers conferred upon a juvenile court under this Act shall, subject to the provisions thereof, be also exercisable by the following courts, whether trying any case originally, or on appeal or in revision, as the case may be— Courts empowered to exercise powers of juvenile courts.

(*a*) the High Court,
(*b*) a Court of Session,
(*c*) a District Magistrate,
(*d*) a sub-divisional Magistrate,
(*e*) a salaried Presidency Magistrate,
(*f*) a salaried Magistrate of the First Class.

9. Save as otherwise provided in this Act,— Powers of juvenile courts and other courts mentioned in section 8.

(*1*) where a juvenile court has been established for any local area, such court shall try all cases in which a child is charged with the commission of an offence and shall deal with and dispose of all other proceedings under this Act, but shall not have power to try any case in which an adult is charged with an offence under Part VI of this Act ;

(*2*) where a juvenile court has not been established for any local area, no court other than courts empowered under section 8 to exercise the powers of a juvenile court shall have power to try any case in which a child is charged with the commission of an offence or to deal with or dispose of any other proceeding under this Act.

10. (*1*) Notwithstanding anything contained in section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, no child shall be charged with or tried for any offence together with an adult if, a juvenile court has been established for the area where the trial of such case is to take place. No joint trial of child and adult in area where juvenile court exists.

V of 1898.

(*2*) If a child is accused of an offence for which under section 239 of the Code of Criminal Procedure, 1898, or any other law for the time being in force, such child and the adult could, but for the provisions of sub-section (*1*), have been tried together the court taking cognizance of the offence shall direct separate trials of the child and the adult ; if a juvenile court has been established for the local area, the child shall be tried by the juvenile court and the adult shall be tried separately by a court having jurisdiction to try the offence.

V of 1898.

11. A juvenile court and in a case in which a child is not being tried jointly with an adult, a Magistrate empowered under section 8 to exercise the powers of a juvenile court shall, as far as practicable, and subject to the provisions of this Act, follow the procedure provided by the Code of Criminal Procedure, 1898, for summary trials in summons cases in which an appeal lies. Procedure in appealable summons cases to be followed by juvenile courts and magistrates' courts in trials of children.

V of 1898.

Sittings, etc., of juvenile courts, etc.

12. (*1*) A juvenile court shall hold its sittings at such places, on such days and in such manner as may be prescribed.

(*2*) In the trial of a case in which a child is charged with an offence and is not being tried jointly with an adult, a court shall, as far as may be practicable, sit in a different building or room from that in which the ordinary sittings of the court are held, or on different days, or at different times from those at which the ordinary sittings of the court are held.

Adult to be committed to sessions in a case to be committed to sessions.

13. In the trial of a case in which a child is being tried together with an adult in accordance with the provisions of this Act, if the magistrate trying the case comes to the conclusion that the case is a fit one for committal to the court of session, he shall separate the case in respect of the child from that in respect of the adult and shall direct the adult alone to be committed to the court of sessions for trial and shall proceed with the trial of the case in respect of the child, notwithstanding anything in the Code of Criminal Procedure, 1898, or any other law for the time being in force. V of 1898.

Appearance of legal practitioners before juvenile courts.

14. Notwithstanding anything contained in any law for the time being in force, a legal practitioner shall not be entitled to appear in any case or proceeding before a juvenile court, unless the juvenile court is of opinion that in public interests the appearance of a legal practitioner is necessary in such case or proceeding and authorises, for reasons to be recorded in writing, a legal practitioner to appear in such case or proceeding.

Presence of persons in juvenile courts.

15. Save as provided in this Act, no person shall be present at any sitting of a juvenile court except—

(*a*) the members and officers of the court,

(*b*) the parties to the case before the court and other persons directly concerned in the case including the Police Officers,

(*c*) such other persons as the court specially authorises to be present.

Withdrawal of persons from juvenile courts.

16. If at any stage during the course of a trial of a case or proceeding, a juvenile court considers it expedient in the interests of the child to direct any person including the parent, guardian or the spouse of the child, or the child himself to withdraw, the court shall be entitled to give such direction and thereupon such person shall withdraw. If any person refuses to withdraw, the court may take steps to remove him.

Dispensing with attendance of child.

17. If at any stage during the course of the trial of a case or proceeding, the juvenile court is satisfied that the attendance of a child is not essential for the purposes of the hearing of the case or proceeding, the court may dispense with his attendance and proceed with the trial of the case in the absence of the child.

Withdrawal of persons from court when child is examined as witness.

18. If at any stage during the course of a trial of a case or proceeding in relation to an offence against, or any conduct contrary to, decency or morality, a child is summoned as a witness, any court trying the case or holding the proceeding may direct such persons as it thinks fit, not parties to the case or proceeding; their legal advisers and the officers concerned with the case or proceeding to withdraw. Such persons shall then withdraw. If any person refuses to withdraw, the court may take steps to remove him.

19. (*1*) Where a child brought before a court under this Act has a parent or guardian such parent or guardian may in any case, and shall, if he can be found and if he resides within a reasonable distance, be required to attend the court before which any proceeding is held under this Act, unless the court is satisfied that it will be unreasonable to require his attendance. Attendance at court of parent of child charged with offence, etc.

(*2*) The parent or guardian whose attendance shall be required under this section shall be the parent or guardian having the actual charge of, or control over, the child :

Provided that if such parent or guardian is not the father, the attendance of the father may also be required.

(*3*) The attendance of the parent of a child shall not be required under this section in any case where the child was, before the institution of the proceedings, removed from the custody or charge of his parent by an order of a court.

20. (*1*) When a child who has been brought before a court under any of the provisions of this Act is found to be suffering from a disease requiring prolonged medical treatment or physical or mental complaint that will respond to treatment, the court may send the child to a remand home or to any other place recognised to be an approved place in accordance with the rules made under this Act for such period as it may think necessary for the required treatment. Committal to approved place of child suffering from dangerous disease and its future disposal.

III of 1898. IV of 1912.

(*2*) Where a child is found to be suffering from leprosy or is of unsound mind, he shall be dealt with under the provisions of the Lepers Act, 1898, or the Indian Lunacy Act, 1912, as the case may be.

(*3*) Where a court has taken action under sub-section (*1*) in the case of a child suffering from an infectious or contagious disease, the court before restoring the said child to his partner in marriage, if there has been such or to the guardian, as the case may be, shall where it is satisfied that such action will be in the interests of the said child call upon his partner in marriage or the guardian, as the case may be, to satisfy the court by submitting to medical examination that such partner or guardian will not re-infect the child in respect of whom the order has been passed.

21. For the purpose of any order which a court has to pass under this Act, the court shall have regard to the following factors :— Factors to be taken into consideration in passing orders by courts.

(*a*) the character and age of the child,

(*b*) the circumstances in which the child is living,

(*c*) the reports made by the Probation officer, and

(*d*) such other matters as may, in the opinion of the court, require to be taken into consideration in the interests of the child :

Provided that where a youthful offender is found to have committed an offence, the above factors shall be taken into consideration after the court has recorded a finding against the youthful offender that he has committed the offence.

22. The report of the Probation officer or any other report considered by the court under section 21 shall be treated as confidential : Reports of Probation officers and other reports to be treated confidential.

Provided that if such report relates to the character, health or conduct of, or the circumstances in which, the child or parent is living, the court may, if it thinks expedient, communicate the substance thereof to the child or parent concerned, as the case may be, and may give the child or parent an opportunity to produce evidence as may be relevant to the matters stated in the report.

Prohibition on publication of names, addresses, etc. of children involved in cases or proceedings under the Act.

23. No report in any newspaper, magazine or news-sheet of any case or proceeding in any court under this Act in which a child is involved shall disclose the name, address or school or include any particulars calculated to lead to the identification of any such child, nor shall any picture be published as being or including a picture of any such child :

Provided that for reasons to be recorded in writing the court trying the case or holding the proceeding may permit the disclosure of any such report, if in its opinion such disclosure is in the interests of child welfare and is not likely to affect adversely the interests of the child concerned.

Provisions of Criminal Procedure Code, 1898, to apply to trial of cases and conduct of proceedings under the Act unless excluded.

24. Except as expressly provided under this Act or the rules made thereunder, the procedure to be followed in the trial of cases and the conduct of proceedings under this Act shall be in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

PART III.

CERTIFIED SCHOOLS, REMAND HOMES AND OTHER INSTITUTIONS.

Establishment and certification of schools.

25. (*1*) The Provincial Government may establish and maintain industrial schools for the reception of children and youthful offenders.

(*2*) The Provincial Government may certify that any industrial school or other educational institution not established under sub-section (*1*) is fit for the reception of children or youthful offenders.

Declaration of places as Remand Homes.

26. The Provincial Government may, by notification in the *Official Gazette*, declare any particular place as a remand home for the purposes of this Act.

Conditions to be prescribed for fit person institutions and approved places.

27. The Provincial Government may prescribe conditions subject to which institutions or associations shall be recognised as "fit person institutions" and "approved places" for the purposes of this Act.

Management of certified schools.

28. (*1*) For the control and management of every school established under sub-section (*1*) of section 25, a superintendent and a committee of visitors shall be appointed by the Provincial Government and such superintendent and committee shall be deemed to be the managers of the school for the purposes of this Act.

(*2*) Every school certified under sub-section (*2*) of section 25 shall be under the management of a governing body, the members of which shall be deemed to be the managers of the school for the purposes of this Act.

Liabilities of managers.

29. (*1*) The managers of a certified school whether established or recognised by the Provincial Government and the managers of a fit person institution shall be consulted by the court before any child is committed to it.

(*2*) The managers of a certified school recognized by the Provincial Government may decline to receive any child committed to it under this Act :

Provided that when such school has once accepted any child, it shall be bound to teach, train, lodge, clothe and feed him during the whole period for which he is liable to be detained in the school, or until the withdrawal or resignation of the certificate of the school.

30. Any registered medical practitioner empowered in this behalf by the Provincial Government may visit any certified school or fit person institution at any time with or without notice to its managers in order to report to the Chief Inspector on the health of the inmates and the sanitary condition of the school or institution. Medical inspection of Certified Schools and fit person institutions.

31. (*1*) The Provincial Government if dissatisfied with the conditions, rules, management or superintendence of a certified school may at any time by notice served on the managers of the school declare that the certificate of the school is withdrawn as from a date specified in the notice and on such declaration the withdrawal of the certificate shall take effect and the school shall cease to be a certified school. Power of Provincial Government to withdraw certificate.

(*2*) The Provincial Government may, instead of withdrawing a certificate under sub-section (*1*), by notice served on the manager of the school, prohibit the admission of children or youthful offender to the school for such time as may be specified in the notice or until the notice is revoked :

Provided that before the issue of a notice under sub-section (*1*) or (*2*), a reasonable opportunity shall be given to the managers of the school to show cause why the certificate may not be withdrawn or admission to the school may not be prohibited, as the case may be.

32. The managers of a certified school may, on giving six months' notice in writing to the Provincial Government through the Chief Inspector of Certified Schools of their intention so to do, resign the certificate of the school and accordingly at the expiration of six months from the date of notice; unless before that time the notice is withdrawn, the resignation of the certificate shall take effect, and the school shall cease to be a certified school. Resignation of certificate by managers.

33. A child or youthful offender shall not be received into a certified school under this Act after the date of the receipt by the managers of the school of a notice of withdrawal of the certificate or after the date of a notice of resignation of the certificate : Effect of withdrawal or resignation of certificate.

Provided that the obligation of the managers to teach, train, lodge, clothe and feed any children or youthful offenders detained in the school at the respective dates aforesaid shall, except so far as the Provincial Government otherwise directs, continue until the withdrawal or resignation of the certificate takes effect.

34. When a school ceases to be a certified school the children or youthful offenders detained therein shall be either discharged absolutely or on such conditions as the Provincial Government may impose or transferred by order of the Chief Inspector of Certified Schools to some other certified school or fit person institution in accordance with the provisions of this Act relating to discharge and transfer. Disposal of inmates on withdrawal or resignation.

35. (*1*) The Provincial Government may cause any voluntary home to be visited and inspected from time to time at all reasonable hours by the Chief Inspector of Certified Schools or any member of the inspecting staff for the purpose of securing the health and welfare of the children and the sanitation of the premises. Inspection of voluntary homes.

(*2*) The Chief Inspector of Certified Schools or any member of his inspecting staff shall have power to enter a voluntary home at all reasonable hours and to make a complete inspection thereof and of all registers relating thereto for the aforesaid purposes.

(*3*) Where any voluntary home is for the reception of girls, the inspection shall, where practicable, be conducted by a woman authorised or appointed by the Chief Inspector of Certified Schools.

(*4*) If the Provincial Government is satisfied that the management of any voluntary home, or the accommodation for, or the treatment of, the children therein is unsatisfactory, it may cause to be served upon the person responsible for the management of the voluntary home such general or specific direction with respect to the matters aforesaid or any of them as it thinks expedient for the welfare of the children in the institution.

(*5*) A direction under the foregoing sub-section may be varied by a subsequent direction or withdrawn by the Provincial Government.

(*6*) Where any such direction is not complied with, the District Magistrate in the mofussil or the Chief Presidency Magistrate in Greater Bombay may, on the complaint of any person appointed for the purpose by the Provincial Government, cause a summons to be served upon the person in charge of the voluntary home and upon such other person as he may think fit and upon hearing the person summoned, may if he thinks fit, make an order for the removal of all children from the voluntary home.

(*7*) The District Magistrate or the Chief Presidency Magistrate, as the case may be, may, if he thinks fit, order that the direction shall be deemed to be modified to such extent as may be specified in such order and the direction shall have effect accordingly.

(*8*) Any order for the removal of all children from such voluntary home shall operate as an authority to any person named in the order and to any police officer not below the rank of an Inspector to enter the voluntary home and to remove the children therein to a place of safety.

(*9*) Where an order has been made for the removal of all children from such voluntary home, the home shall not be used for the reception of children without the consent of the Provincial Government.

Inspection of certified schools and visits to fit person institutions.

36. (*1*) Every certified school shall be liable to inspection at all times and in all its departments by the Chief Inspector, Inspector or Assistant Inspector, and shall be so inspected at least once in every year.

(*2*) The Chief Inspector, Inspector or Assistant Inspector shall also have a right to visit a fit person institution at any time :

Provided that where any such certified school or fit person institution is for the reception of girls mainly and such inspection or visit is not made or paid by the Chief Inspector, the visitor shall, wherever practicable, be a woman.

PART IV.

OFFICERS, THEIR POWERS AND DUTIES.

Appointment of officers.

37. (*1*) The Provincial Government may for the purposes of this Act appoint the following officers :—

(*a*) The Chief Inspector of Certified Schools.
(*b*) Inspectors and Assistant Inspectors of certified schools.
(*c*) The Probation officer.
(*d*) Such other officers as may be necessary.

(*2*) Any society recognized in this behalf by the Provincial Government may also appoint a Probation officer.

(*3*) Notwithstanding anything contained in sub-section (*1*) or (*2*), a juvenile court or any court empowered under section 8 to exercise the powers of a juvenile court may, for the purposes of any particular case or proceeding, appoint any other person as a Probation officer, if in its opinion such appointment is expedient or necessary.

Supervision and control of Probation officers.

38. A Probation officer in the performance of his duties under this Act shall be an officer of the court, and shall be under the supervision and guidance of the juvenile court, where such court exists and elsewhere of the District Magistrate of the district in which the court which passes any order under this Act in respect of the child is situated.

Nothing in this section shall derogate from the powers of supervision of the Chief Presidency Magistrate and the Chief Inspector of Certified Schools in Greater Bombay and the District Magistrate and the Chief Inspector of Certified Schools elsewhere.

Powers and duties of Probation officers and inspectors.

39. The powers and duties of the Chief Inspector, Inspectors and Assistant Inspectors of Certified Schools and of Probation officers shall be as those provided under the provisions of this Act and the rules made thereunder and in accordance with the general or special orders which the Provincial Government or any officers authorised in this behalf may make for the purpose of carrying out the provisions of this Act.

PART V.

MEASURES FOR THE CARE AND PROTECTION OF DESTITUTE AND NEGLECTED CHILDREN, ETC.

Children found homeless, destitute, etc.

40. Any police officer, or other person authorised in this behalf in accordance with the rules made by the Provincial Government, may bring—

(*i*) before a juvenile court if such court is established for the area and is sitting,

(*ii*) if a juvenile court is not established for the area or if it is not sitting, before a magistrate empowered under section 8 with the powers of a juvenile court, or

(*iii*) if there is no court of the kind specified in items (*i*) and (*ii*) above, before any magistrate

any person who in his opinion is a child and who—

(*a*) has no home, or is found wandering without any settled place of abode and without visible means of subsistence, or is found begging or is found doing for a consideration any act under circumstances contrary to the well-being of the child; or

(*b*) is destitute or is illegitimate without means of subsistence, other than that of charity, or has no parent or guardian, or has a parent or guardian unfit to exercise or incapable of exercising proper care and guardianship, or who is not exercising proper care and guardianship; or

(*c*) is known to associate or live with any prostitute or person or persons of criminal or drunken habits; or

(*d*) is lodging or residing in or frequently going to a place or places used for the purposes of prostitution; or

(*e*) is otherwise likely to fall into bad association or to be exposed to moral danger, or to enter upon a life of crime.

Procedure when Magistrate is not empowered to pass order under this Act.

41. When any magistrate not empowered to exercise the powers of a juvenile court is of opinion that a person brought before him is a child, he shall record such opinion and submit the proceedings and forward the child to the nearest juvenile court having jurisdiction in the case or where such court does not exist to the District Magistrate or Sub-Divisional Magistrate to whom he is subordinate.

Police officer to make report if child has parent.

42. If the child requiring care and protection on any of the grounds mentioned in clauses (*a*) to (*c*) of section 40, has a parent or guardian who has the actual charge of, or control over, the child, the police officer or other person authorised under section 40 shall, in the first instance make a report to the juvenile court established for the area or if one has not been established to the nearest magistrate empowered under section 8 to exercise the powers of a juvenile court or to any other nearest magistrate.

Court or Magistrate may direct production of child by parent or guardian.

43. The juvenile court, magistrate, or the other court to which or whom a report is made under section 42, may call upon such parent or guardian to produce the child before it or him in order to show cause why the said child should not during the pendency of the proceedings, be removed from his care; and may on suitable sureties being offered for the safety of such child and for his being brought before it or him, permit the child to remain in the actual charge or control of his parent or guardian, or may immediately order his removal, if necessary by issuing a search warrant for the immediate production of the child to a place of safety, if it appears to the court or magistrate that the child is likely to be removed from the jurisdiction of the court or to be concealed.

Examination of police officer or person producing or reporting.

44. (*1*) The court before which a child is brought under section 40 or 41 shall examine the police officer or the authorised person who brought the child or made the report and record the substance of such examination and shall, as provided in section 43, send the child to a remand home for further inquiries.

(*2*) On the date fixed for the production of the child or for the inquiry or on any subsequent date to which the proceedings may be adjourned, the court shall hear and record all evidence which may be adduced and consider any cause which may be shown why an order committing the child to a certified school or to the care of a fit person should not be passed and make any further inquiry it thinks fit.

Committal of child to certified school or to fit person.

45. (*1*) If the court is satisfied on the inquiry that such person is a child and is as described within the provisions of section 40 and that it is expedient so to deal with him, the court may order him to be committed to a certified school or to the care of a fit person named by the court until such child attains the age of eighteen years, or in exceptional cases for a shorter period, the reasons for such shorter period to be stated in writing.

(*2*) The court which makes an order committing a child to the care of a relative or other fit person may, when making such order, require such relative or other person to execute a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the child and for the observance of such other conditions as the court may impose for securing that the child may lead an honest and industrious life.

(*3*) The court which makes an order committing a child to the care of a relative or other fit person under this section may in addition order that he be placed under supervision for any period not exceeding three yeras:

Provided that when the court thinks fit, it may allow such child to remain in the custody of a parent or guardian with a direction that he be placed under supervision, on such parent or guardian executing a bond with or without sureties in a prescribed form, and the court may from time to time during the supervision period adjourn the case and compel the production of the child in court to satisfy itself that the conditions of the said bond are being carried out :

Provided further that if it appears to the court on receiving a report from the probation officer or otherwise, that there has been a breach of the supervision order, it may, after making such inquiries as it deems fit, order the child in respect of whom the supervision order has been made, to be detained in a certified school or committed to the care of a fit person.

Sending of child having place of residence outside jurisdiction.

46. (*1*) In the case of a child whose ordinary place of residence lies outside the jurisdiction of the court before which it is brought, the court may, if satisfied after due inquiry that it is expedient so to do, send the child on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him.

(*2*) Any breach of the said bond shall render the child liable to be committed to a certified school or to the care of another fit person.

Uncontrollable children.

47. (*1*) Where the parent or guardian of a child complains to the juvenile court or if a juvenile court is not established for the area to a Magistrate empowered under section 8 to exercise the powers of a juvenile court that he is not able to control his child, the court or magistrate, as the case may be, if satisfied on inquiry that the case appears to be one of which cognizance should be taken, shall remand the child for observation or treatment and any further inquiries necessary.

(*2*) If the court or Magistrate is satisfied that it is expedient so to deal with the child under this Act, the court or Magistrate may order the child to be committed to a certified school, or a fit person institution.

(*3*) The court or Magistrate may also, if satisfied that home conditions are satisfactory and what is needed is supervision, commit the child to the care of the person or guardian or relative or any other proper person under a bond with or without sureties and place him under supervision for a period not exceeding three years.

PART VI.

SPECIAL OFFENCES IN RESPECT OF CHILDREN.

Punishment for cruelty to children.

48. (*1*) Whoever having the actual charge of, or control over, a child wilfully assaults, illtreats, neglects, abandons, or exposes him or causes or procures him to be assaulted, illtreated, neglected, abandoned or exposed or negligently fails to provide adequate food, clothes, or medical aid or lodging for a child in a manner likely to cause such child unnecessary mental and physical suffering shall, on conviction, be punished with imprisonment of either description for a term not exceeding two years or with fine which may extend to one thousand rupees or with both :

Provided that in the case of married juveniles the court trying the offences under this section may sanction its composition for reasons to be recorded in writing.

(*2*) The infliction of reasonable punishments on a child for a proper reason shall not be deemed to be an offence under this section.

Employing children for begging.

49. Whoever employs any child for the purposes of begging or causes any child to beg or whoever having the custody, charge or care of a child connives at or encourages the employment for the purpose of begging or the causing of a child to beg and whoever uses a child as an exhibit for the purpose of begging shall, on conviction be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to three hundred rupees or with both.

Penalty for being drunk while in charge of child, etc.

50. If any person is found drunk in any public street or other public place, whether a building or not, while having the charge of a child, and if such person is incapable by reason of his drunkenness of taking due care of the child, such person shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for giving intoxicating liquor or dangerous drug to child.

51. Whoever in any public street or other public place, whether a building or not, gives or causes to be given to any child any intoxicating liquor or dangerous drugs except upon the order of a duly qualified medical practitioner in case of sickness or other urgent cause shall, on conviction, be punished with fine which may extend to two hundred rupees.

Penalty for permitting child to enter places where liquor or dangerous drug is sold.

52. Whoever takes a child to any place where intoxicating liquor or dangerous drugs are sold or whoever being the proprietor, owner or a person in charge of such place permits a child to enter such place or whoever causes or procures a child to go to such place shall, on conviction, be punished with fine which may extend to two hundred rupees.

Inciting child to bet or borrow.

53. Whoever by words either spoken or written or by signs, or otherwise, incites or attempts to incite a child to make any bet or wager or to enter into or take any share or interest in any betting or wagering transaction or so incites or attempts to incite a child to borrow money or to enter into any transaction involving the borrowing of money shall, on conviction, be punished with imprisonment of either description for a term which may extend to one month or with fine which may extend to one hundred rupees or with both.

Taking on pledge or purchasing articles from child.

54. Whoever takes an article on pledge from a child, whether offered by that child on his own behalf or on behalf of any person shall, on conviction, be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to five hundred rupees or with both.

Allowing or permitting child to be in brothel.

55. Whoever allows or permits a child over the age of four years to reside in or frequently go to a brothel shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Causing or encouraging seduction, etc.

56. (*1*) Whoever having the actual charge of, or control over, a girl under the age of eighteen years causes or encourages the seduction (which shall include inducement to indulge in immoral behaviour) or prostitution of that girl or cause or encourages any one other than her husband provided his wife has attained the age of fourteen years, to have sexual intercourse with her shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(2) For the purposes of this section a person shall be deemed to have caused or encouraged the seduction of a girl or to have induced her to behave immorally if he has knowingly allowed the girl to consort with, or to enter or continue in the employment of, any prostitute, or person of known immoral character.

Seduction or outrage of modesty.

57. Whoever seduces or indulges in immoral behaviour with a girl under the age of eighteen years shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

Young girls exposed to risk of seduction, etc.

58. If it appears to a court on the complaint of any person that a girl under the age of eighteen years is, with or without the knowledge of her parent or guardian, exposed to the risk of seduction or prostitution, the court may direct the parent or guardian to enter into a recognisance to exercise due care and supervision in respect of such girl.

Exploitation of child employees.

59. (1) Whoever secures a child ostensibly for the purpose of menial employment or for labour in a dock, factory or other establishment, but in fact exploits the child for his own ends, withholds or lives on his earnings, shall, on conviction, be punished with fine which may extend to one thousand rupees.

(2) Whoever secures a child ostensibly for any of the purposes mentioned in sub-section (1), but exposes such child to the risk of seduction, sodomy, prostitution or other immoral conditions, shall, on conviction, be punished with imprisonment of either description for a term which may extend to two years or with fine which may extend to one thousand rupees or with both.

(3) Any person who avails himself of the labour of a child exploited in the manner referred to in sub-section (1) or (2) or for whose immoral gratification such child is used shall be liable as an abettor.

Penalty for abetting escape of child or youthful offender.

60. Whoever—

(a) knowingly assists or induces, directly or indirectly, a child detained in or placed out on licence, from a certified school or a fit person institution to escape from the school or fit person institution or from any person with whom, as the case may be, he has been placed out on licence, or any child to escape from the person to whose care he has been committed under the provisions of this Act, or

(b) knowingly harbours, conceals, connives at or prevents from returning to school or fit person institution or to any person with whom he is placed out on licence or to whose care he is committed under this Act, a child who has so escaped or knowingly assists or connives at so doing,

shall, on conviction, be punished with imprisonment of either description for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.

Penalty for use of voluntary home in contravention of section 35.

61. Whoever uses or knowingly permits to be used any voluntary home in contravention of the provisions of section 35 shall, on conviction, be punished with fine which may extend to five hundred rupees and to a further fine not exceeding fifty rupees in respect of each day during which the institution is so used or permitted to be used after the conviction.

Penalty for publication of report or pictures relating to children.

62. Whoever publishes any report or picture in contravention of the provisions of section 23 shall, on conviction, be punished with imprisonment of either description for a term not exceeding two months or with fine which may extend to five hundred rupees or with both.

Offences under this part cognizable.

63. All offences under this part shall be cognizable.

PART VII.

YOUTHFUL OFFENDERS.

Bail of children arrested.

64. Where a boy or a girl apparently under the age of sixteen years is arrested on a charge of a nonbailable offence and cannot be brought forthwith before a court, the officer in charge of the police station or section to which such boy or girl is brought, may release the child on bail, if sufficient security is forthcoming, but shall not do so where the release of the child shall bring him into association with any reputed criminal or expose him to moral danger or where his release would defeat the ends of justice.

Custody of children not enlarged on bail.

65. (1) Where a boy or a girl apperently under the age of sixteen years having been arrested is not released under section 64 or otherwise, the officer in charge of the police station or section shall cause him or her to be detained in the prescribed manner until he or she can be brought before a juvenile court or a court empowered under section 8 to exercise the powers of a juverile court.

(2) A court, on remanding or committing for trial a child who is not releasd on bail, shall order him to be detained in the prescribed manner.

Submission of information to Probation officer and officer in charge of remand home by Police After arrest.

66. Immediately after the arrest of a child, it shall be the duty of the police officer or any other person effecting the arrest, to inform the Probation officer and officer in charge of a remand home of such arrest in order to enable the said Probation officer and officer in charge of the remand home to proceed forthwith in obtaining information regarding his antecedents and family history and other material circumstances likely to assist the juverile court in making final order.

Attendance of parent or guardian.

67. Where the child is arrested, the officer in charge of the police station or section o which he is brought shall cause the parent or guardian of the child, if he can be found, to be summoned at the court before which the child will appear.

Sentences that may not be passed on child.

68. (1) Notwithstanding anything to the countrary contained in any law, no youthful offender shall be sentenced to death or transportation or imprisonment.

(2) When a child is found have committed an offence of so serious a nature that the court is of opinion that no punishment, which under the provisions of this Act it is authorised to inflict, is sufficient or when the court is satisfied that the child is of so unruly or of so depraved a character that he cannot be committed to a certified school or detained in a place of safety and that none of the other methods in which the case may be legelly dealt with is suitable, the court shall order the offender to be kept in safe custody in such place or manner as it thinks fit and shall report the case for the orders of the Provincial Government.

69. Save as provided in this Act, the words "conviction" and "sentence" shall cease to be used in relation to children dealt with under this Act and any reference in any enactment to a person convicted, a conviction or a sentence shall in the case of a child be construed as including reference to a person found guilty of an offence, a finding of guilty or an order made upon such a finding, as the case may be. Expressions "conviction and sentence" not to be used in relation to children.

70. Notwithstanding anything to the contrary contained in the Code of Criminal Procedure, 1898, no proceedings shall be instituted and no order shall be passed against a child under Chapter VIII of the said Code. No proceedings under Chapter VIII of Criminal Procedure Code against child.

V of 1898.

71. Where a child is found to have committed an offence, the court, if satisfied on inquiry that it is expedient so to deal with the child, may order him to be committed to a certified school or a fit person institution for such period of detention as will not, subject to the provisions of section 5, extend beyond the time when the child will attain the age of eighteen years or in exceptional cases for a shorter period, the reasons for such shorter period to be recorded in writing. Commitment of child to certified school or fit person institution.

72. A Court may, if it shall think fit, instead of directing any youthful offender to be detained in a certified school or committed to the care of a fit person institution under section 71— Other order of the Court.

(*i*) order him to be discharged after due admonition ;

(*ii*) without passing any final order, direct that he be released on probation of good conduct and committed to the care of his parent or guardian or other adult relative or other fit person on such parent, guardian , relative or person executing a bond, with or without sureties, as the court may require, to be responsible for the good behaviour and well-being of the youthful offender for any period not exceeding three years and for the observance of such other conditions as the court may impose for securing that the youthful offender may lead an honest and industrious life ;

(*iii*) if the offence committed by the youthful offender is punishable with fine and the youthful offender himself is over the age of fourteen years, order the offender to pay a fine.

73. (*1*) In the case of a youthful offender whose ordinary place of residence lies outside the jurisdiction of the court before which he is brought, if the court is satisfied after due inquiry that it is expedient so to do, the court may send the youthful offender on his own bond back to a relative or a fit person, who is fit and willing to receive him at his native place and exercise proper care and control of him, notwithstanding the fact that the youthful offender has to be sent to a place outside the Province. Repatriation.

(*2*) Any breach of the said bond shall render the youthful offender, if found at any time at any place within the Province, liable to be committed to a certified school or to the care of another fit person.

74. (*1*) Where the offence committed is punishable with fine and if the youthful offender is under fourteen years of age, the court shall order that the fine be paid by the parent or guardian of the child, unless the court is satisfied that the parent or guardian cannot be found or that he has not conduced to the commission of the offence by neglecting to exercise due care of the child. Power to order parent to pay fine, etc., instead of child.

(*2*) An order under this section may be made against a parent or guardian who, having been required to attend, has failed to do so, but save as aforesaid, no such order shall be made without giving the parent or guardian an opportunity of being heard.

(*3*) Where a parent or guardian is directed to pay a fine under this section, the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

Release of youthful offenders under supervision.

75. The court shall wherever possible order that the youthful offender released under section 72 be placed under supervision :

Provided that if it appears to the court on receiving a repart from the Probation officer or otherwise, than the youthful offender has not been of good behaviour during the period of supervision, it may proceed to pass such final order as it would have done had it not placed the youthful offender on probation of good conduct.

Postponement *sine die*.

76. Notwithstanding anything contained in the foregoing provision, the court may adjourn the case of a youthful offender *sine die*, and may re-open at the stage of the preceedigs at which it was left when adjourned, on additional grounds or material being placed before the court.

Court empowered to exercise powers under one or more of preceding provisions.

77. In passing an order in respect of a youthful offender under this Part, it shall be lawful to the court to exercise its powers under any one or more of the foregoing provisions at the same time, if it is necessary and expedient to do so in the interests of the offender.

PART VIII.

MEASURES FOR DETENTION ETC., OF CHILDREN AND YOUTHFUL OFFENDERS.

Detention of child in place of safety.

78. (*1*) Any police officer, not below the rank of sub-inspector, or a police officer or a person authorised in this behalf in accordance with rules made by the Provincial Government may take to a place of safety any child in respect of whom an offence has been, or there is reason to believe has been, or is likely to be committed.

(*2*) A child so taken to a place of safety and also any child who seeks refuge in a place of safety may be detained until he can be brought before the court :

Provided that such detention shall not in the absence of a special order of the court exceed a period of twenty-four hours exclusive of the time necessary for the journey from the place of detention to the court.

(*3*) The court may thereupon make such order as hereinafter provided.

Court's powers for care detention of child.

79. (*1*) Where it appears to the court that an offence as stated in section 78 has been committed or is likely to be committed in respect of any child who is brought before it and that it is expedient in the interests of the child that action should be taken under this Act, the court may make such order as circumstances may admit and require for the care and detention of the child until a reasonable time has elapsed for the institution of proceedings against the person for having committed the offence in respect of the child or for the purpose of taking such other lawful action as may be necessary.

(*2*) The order of detention made under sub-section (*1*) shall remain in force until such time as the proceeding instituted against any person for an offence referred to in sub-section (*1*) terminate in either conviction, discharge or acquittal :

Provided that if the proceedings terminated in conviction of the person, the order of detention shall remain in force for a further period of one month.

(3) An order passed under this section shall be given effect to, notwithstanding that any person claims the custody of the child.

Victimised child to be sent to Juvenile Court or District Magistrate.

80. Any court by which a person is convicted of having committed an offence in respect of a child, or before which a person is brought for trial for any such offence or by which a person is bound over to keep the peace towards a child shall direct that the child against whom the offence has been committed, or in relation to the alleged offence against whom the trial is in progress, or in relation to keeping the peace towards whom the adult concerned has been bound over shall be produced before a juvenile court with a view to that court making such interim and final orders as may be proper, provided that in an area where no juvenile court has been established, the court shall submit its proceedings and forward the child to the District Magistrate or Sub-Divisional Magistrate to whom it is subordinate.

Order for committal o victimised children.

81. The court before which a child is produced in accordance with section 79 may order the child in the prescribed manner—

(*a*) to be committed to a certified school or fit person institution, until such child attains the age of eighteen years or in exceptional cases for a shorter period the reasons for such shorter period to be recorded in writing, or

(*b*) to be committed to the care of a relative or other fit person, on bond, with or without surety, as the court may require, such relative or fit person being willing and capable of exercising proper care, control and protection of the child and of observing such other conditions, including ,where necessary supervision for any period not exceeding three years as the court may impose in the interest of the child :

Provided that, if the child has a parent or guardian, fit and capable, in the opinion of the court, of exercising proper care, control and protection, the court may allow the child to remain in his custody or may commit the child to his care on bond, with or without surety, in a prescribed form and for the observance of such conditions as the court may impose in the interest of the child.

Supervision of victimised children.

82. The court which makes an order committing a child to the care of his parent, guardian or other fit person under the foregoing provisions may in addition order that he be placed under supervision.

Breach of supervision.

83. If it appears to the court on receiving a report from the Probation officer or otherwise, that there has been a breach of the supervision order relating to the child in respect of whom the supervision order had been passed, it may after making such inquiries as it deems fit, order the child to be detained in a certified school or to the care of a fit person.

Repatriation of victimised child.

84. (*1*) In the case of a child, the ordinary place of whose residence is outside the jurisdiction of the court before which he is produced if the court is satisfied after due inquiry that it is expedient so to deal with the child, the court may order the child to be sent on his own bond back to a relative or a fit person who is fit and willing to receive him at his native place and exercise proper care and control of him notwithstanding the fact that the place of residence of such child may be at any place outside the Province.

(*2*) For breach of a bond taken under sub-section (*1*) the child shall be liable to be committed to a certified school or to the care of a fit person if found again in the Province.

Reasons to be recorded for order under sections 81 to 84.

85. The reasons for every order made under sections 81 to 84 shall be recorded in writing and may be made by the court in the absence of the child.

Order under sections 81 to 84 to be in force even if conviction of alleged victimisation is set aside.

86. Where an order is made under sections 81 to 84 and the conviction or order binding the person to keep the peace is set aside or the person is acquitted, the order made under the said sections shall remain in force but it shall be open to the person so acquitted, or discharged from his bond to keep the peace to apply for a reconsideration of the said order in consequence of the altered circumstances.

Warrant to search for child.

87. (*1*) If it appears to a juvenile court or any other court duly empowered under this Act from information on oath or solemn affirmation laid by any person who, in its opinion, is acting in the interests of the child, that there is reasonable cause to suspect that an offence has been or is being committed or unless immediate steps be taken will be committed in respect of the child, the court may issue a warrant authorising any police officer named therein to search for such child and if it is found that he has been or is being wilfully ill-treated or neglected in manner aforesaid or that any offence has been or is being committed in respect of the child to take him to and detain him in a place of safety until he can be brought before it and the court before whom the child is brought may in the first instance remand him in the prescribed manner to a place of safety.

(*2*) The court issuing a warrant under this section may in its discretion by the same warrant direct that any person accused of any offence in respect of the child be apprehended and brought before it, or direct that if such person executes a bond with sufficient sureties for his attendance before the magistrate at a specified time and thereafter until otherwise directed by the magistrate, the officer to whom the warrant is directed shall take such security and shall release such person from custody.

(*3*) The police officer executing the warrant shall be accompanied by the person laying the information if such person so desire, and may also, if the magistrate by whom the warrant is issued so directs, be accompanied by a duly qualified medical practitioner.

(*4*) In any information or warrant under this section the name of the child shall be given if known.

Information to Probation officer and officer-in-charge of remand home by Police or any person effecting arrest.

88. (*1*) It shall be the duty of a police officer immediately after effecting the arrest of a child to inform a Probation officer and officer in charge of a remand home for the purpose stated in section 66.

(*2*) It shall be the duty of any other person effecting such arrest to inform a Probation officer and officer in charge of a remand home for the like purpose as provided in section 66.

(*3*) The juvenile court for the purpose of such inquiry, may remand the child even in his absence from time to time for a period of not more than fourteen days at a time until available information has been obtained.

PART IX.

MAINTENANCE AND TREATMENT OF COMMITTED CHILDREN.

89. Notwithstanding anything contained in this Act, the period of detention in the case of a person under the age of fifteen years shall be such as will result in the person being detained until he reaches the age of eighteen years: Period of detention.

Provided that the period of detention in the case of a child over fifteen years of age shall be not less than two years:

Provided further that where special circumstances exist and the interest of the child so demands, it shall be open to the court for reasons to be recorded in writing, to pass an order for a shorter period of detention.

90. (*1*) The court which makes an order for the detention of a child or youthful offender in a certified school or for the committal of a child or youthful offender to the care of a relative or other fit person may make an order on the parent or other person liable to maintain the child, or youthful offender, to contribute to his maintenance, if able to do so, in the prescribed manner. Contribution of parents.

(*2*) The court before making any order under sub-section (*1*) shall inquire into the circumstances of the parent or other person liable to maintain the youthful offender or child and shall record evidence, if any, in the presence of the parent or such other person as the case may be.

(*3*) Any order made under this section may be varied by the court on an application made to it by the party liable or otherwise.

(*4*) The person liable to maintain a child or youthful offender shall for the purposes of sub-section (*1*) include in the case of illegitimacy his putative father:

Provided that where the child or youthful offender is illegitimate and an order for his maintenance has been made under section 488 of the Code of Criminal Procedure, 1898, the court shall not ordinarily make an order for contribution against the putative father but may order the whole or any part of the payments accruing due under the said order for maintenance to such person or persons as may be named, to be applied by him or them, as the case may be, towards the maintenance of the child or youthful offender. V of 1898.

(*5*) Any order under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898. V of 1898.

91. (*1*) In determining the certified school, fit person or other person to whose custody a child is to be committed or entrusted under this Act, the Court shall ascertain the religious denomination of the child and shall, if possible, in selecting such certified school, fit person or other person have regard to the facilities which are afforded for instruction in his religion. Provision as to religion.

(*2*) When a child is committed to the care of a certified school in which facilities for instruction is his religion are not afforded, or in entrusted to the care of a fit person or other person under circumstances in which it appears that no special facilities for the bringing up of the child in his religion exist, the authorities of such certified school or such fit person, or such other person shall not bring the child up in any religion other than his own.

(*3*) Where it is brought to the notice of the Chief Inspector of Certified Schools or of the court that a breach of sub-section (*2*) has been committed, it shall be open to the Chief Inspector or the court to transfer the child from the custody of such institution or person.

Placing out on licence.

92. (*1*) Subject to the prescribed conditions, the Chief Inspector of Certified Schools may, at any time after the expiration of six months from the commencement of the detention of a child in a certified school or fit person institution, on the recommendation of the visitors or managers of the certified school or fit person institution, or on application by a parent, other relation or guardian, reinforced by local inquiries made through the Bombay Province Probation and After-Care Association, or otherwise, release such child from the school or institution and grant him a written licence in the prescribed form and on the prescribed condition permitting him to live under the supervision and authority of such responsible person or society willing to take charge of the child and approved by the Chief Inspector.

(*2*) Any licence granted under sub-section (*1*) shall be in force until revoked or forfeited by the breach of any of the conditions on which it was granted.

(*3*) The Chief Inspector may at any time by order in writing revoke any licence and order the child to return to the certified school or fit person institution and shall do so at the desire of the person or society with whom or under whose supervision he is licensed to live. If the child refuses or fails to return to the school or fit person institution the Chief Inspector may, if necessary, call for the papers and deal with the case himself making such order as he thinks fit in the interest of the child or direct the arrest of the child and cause him to be placed before the court or taken back to the school or fit person institution.

(*4*) When a licence has been revoked or forfeited and the child or youthful offender, refusing or failing to return to the school or fit person institution, has been arrested and placed before the court under the provisions of sub-section (*3*) the court may, if satisfied by information on oath or solemn affirmation that there is reasonable ground for believing that his parent or guardian could produce the child or youthful offender issue a summons requiring the parent or guardian to attend at the court on such day as may as be specified in the summons and to produce the child or youthful offender, and, if he fails to do so without reasonable excuse, he shall, in addition to any other liability to which he may be subject under the provisions of this Act, on conviction, be punished with fine which may extend to fifty rupees.

(*5*) Where a parent or guardian is directed to pay a fine under this section the amount may be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898. V of 1898.

(*6*) The time during which a child is absent from a certified school or fit person institution in pursuance of a licence granted under this section shall be deemed to be part of the time of his detention in the school or institution; provided that, where a child has failed to return to the school or institution on the licence being revoked or forfeited, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the school or institution.

Action by Police with escaped children.

93. (*1*) Notwithstanding anything to the contrary contained in any law for the time being in force, any police officer may arrest without a warrant a child who has escaped from a certified school or a fit person institution or from the supervision of a society or a person under whose supervision he was directed to remain, and shall send the child back to the certified school, institution, society or the person without registering any offence or prosecuting the child, and the said child shall not be deemed to have committed any offence by reason of such escape but he shall be dealt with by the authorities of the institution concerned in such manner as they think fit.

(*2*) When a child absconding from a certified school or fit person has been arrested at a different place, he shall be detained in a place of safety pending his removal to the certified school or fit person.

PART X.

APPEALS.

Appeals.

94. (*1*) Any person aggrieved by a final order may appeal to the courts hereinafter mentioned.

(*2*) If a final order is passed—

(*a*) by a juvenile court, an appeal shall lie in the Greater Bombay to the Chief Presidency Magistrate and in other places to the District Magistrate ;

(*b*) by a Magistrate (not being a Presidency Magistrate) empowered under section 8 to exercise the powers of a juvenile court, an appeal shall lie to the Court of Session ;

(*c*) by a Presidency Magistrate or a Court of Session, an appeal shall lie to the High Court.

(*3*) Except as provided in this section no appeal shall lie from any order passed under this Act by a juvenile court or any other court empowered to exercise the powers of a juvenile court under section 8.

Application of Criminal Procedure Code to appeals.

V of 1898.

95. The provisions of sections 419 to 431 (both inclusive) of the Code of Criminal Procedure, 1898, shall *mutatis mutandis* apply to appeals against final orders, as if the said orders were the orders of conviction and sentence passed by a Criminal Court.

Period of limitation of appeals.

96. (*1*) The period of limitation for an appeal against a final order shall be thirty days in the case of appeals to courts other than the High Court and sixty days in the case of an appeal to the High Court from the date of the order appealed against.

IX of 1908.

(*2*) The provisions of sections 5, 7 and 12 of the Indian Limitation Act, 1908, shall apply to the filing of such appeals.

PART XI.

MISCELLANEOUS.

Discharge and transfer.

97. (*1*) The Provincial Government may at any time order a child or youthful offender to be discharged from a certified school or fit person institution, either absolutely or on such conditions as the Provincial Government approves.

(*2*) (*a*) The Provincial Government may order a youthful offender who has attained the age of sixteen years detained in a certified school to be transferred to a Borstal School established under the Bombay Borstal Schools Act, 1929, in the interest of discipline or for other special reasons ;

Bom. XVIII of 1929.

(*b*) any boy or girl over the age of sixteen years, who has been released on licence and who has committed a breach of licence conditions and whom it is not advisable to send back to his own school or institution, may be transferred to a Borstal School :

Provided that the whole period of the detention of the child or youthful offender shall not be increased by the transfer.

(*3*) Upon the transfer of a child or youthful offender to a Borstal School under sub-section (*2*) the provisions of the Bombay Borstal Schools Act, 1929, shall apply to such offender as if he had been originally ordered to be detained in a Borstal School under that Act. Bom. XVIII of 1929.

(*4*) The Provincial Government may at any time in its discretion discharge a child from the care of any person to whose care he is committed under this Act, either absolutely or on such conditions as the Provincial Government approves.

Transfers between institutions and those of like nature in different parts of India.

98. (*1*) The Provincial Government may in consultation with the managers of any certified school or fit person institution, consent to the transfer to that school or institution of any child or youthful offender in respect of whom an order has been made by a competent authority in any other part of India or in an Acceding State of the nature of an order under this Act directing him to be sent to a certified or reformatory school or institution of a like nature, and upon such transfer the provisions of this Act shall apply to such child or youthful offender.

(*2*) The Provincial Government may direct any child or youthful offender to be transferred from any certified or reformatory school or fit person institution to any school or institution of a like nature in any other part of India or in an Acceding State in respect of which provision similar to that in the Province of Bombay is made by the Government of that part or State under any law in force therein :

Provided that no such child or youthful offender shall be transferred under this section to any other Province or State without the consent of the Government concerned.

Transfer of children of unsound mind or suffering from leprosy.

99. (*1*) Where it appears to the Provincial Government that any child detained in a certified school or fit person institution under any order of a court is of unsound mind or a leper the Provincial Government may, by an order setting forth the grounds of belief that the child is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, there to be kept and treated as the Provincial Government directs during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the child or of other that he should be further detained under medical care or treatment, then until he is discharged according to law.

(*2*) Where it appears to the Provincial Government that the child has become of sound mind, or is cured of leprosy, the Provincial Government shall, by an order directed to the person having charge of the child if still liable to be kept in custody, send him to the certified school or fit person institution from which he was removed, or if the child is no longer liable to be kept in custody, order him to be discharged.

(*3*) The provisions of section 31 of the Indian Lunacy Act, 1912, or (subject to the provisions of sub-section (*2*)) of section 14 of the Lepers Act, 1898, shall apply to every child confined in a mental hospital or leper asylum under sub-section (*1*) after the expiration of the period for which he was ordered to be detained ; and the time during which a child is confined in a mental hospital or leper asylum under that sub-section shall be reckoned as part of the period for which he may have been ordered by the court to be detained : IV of 1912. III of 1898.

Provided that where the removal of a child due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the institution in which the child is detained to apply to a court having jurisdiction under the Indian Lunacy Act, 1912, or the Lepers Act, 1898, as the case may be, for an immediate order of committal to mental hospital or a leper asylum until such time as the orders of the Provincial Government can be obtained in the matter. IV of 1912. III of 1898.

100. The Chief Inspector may direct any child or youthful offender to be transferred from one institution to another whether a certified school or fit person institution : Transfer from one institution to another.

Provided that the total period of detention of the child or youthful offender shall not be increased by such transfer.

101. (*1*) If in any case in which an information has been laid by any person under the provisions of section 87, the magistrate after such inquiry as he may deem necessary is of opinion that such information was false and either frivolous or vexatious, the magistrate may for reasons to be recorded in writing direct that compensation to such an amount not exceeding one hundred rupees as he may determine be paid by such informer to the person against whom the information was laid. Compensation for false and frivolous or vexatious information.

(*2*) Before making any order for the payment of compensation, the magistrate shall call upon the informer to show cause why he should not pay compensation and shall consider any cause which such informer may show.

(*3*) The magistrate may by the order directing payment of the compensation further order that in default of payment the person ordered to pay such compensation shall suffer simple imprisonment for a term not exceeding thirty days.

XLV of 1860. (*4*) When any person is imprisoned under sub-section (*3*), the provisions of sections 68 and 69 of the Indian Penal Code shall, so far as may be, apply.

(*5*) No person who has been directed to pay compensation under this section shall by reason of such order be exempted from any civil or criminal liability in respect of the information given by him but any amount paid as compensation shall be taken into account in any subsequent civil suit relating to such matter.

(*6*) When an order for the payment of compensation is made under sub-section (*1*), the compensation shall not be paid to the person ordered to receive it before the period allowed for the presentation of an appeal has expired.

102. When a youthful offender is found to have committed any offence, the fact that he has been so found shall not have any effect under section 75 of the Indian Penal Code or section 565 of the Code of Criminal Procedure, 1898, or operate as a disqualification for office or any employment or election under any law. Removal of disqualification attaching to convictions.

XLV of 1860. V of 1898.

103. Without prejudice to the powers of courts of appeal and revision any custody order, supervision order or probation order may be amended by the court which made such order in respect of the person named as custodian, supervisor or Probation officer and such other details as may be deemed necessary, provided that in the case of an order committing a child to an institution no such order shall, subject to the proviso hereinbelow, be amended except in relation to the period of duration, such amendment being by way of extension of the period only : Power to amend orders.

Provided that in case of emergency and for immediate necessity a committal order may be varied by way of change in the institution to which the order relates, such variation being subject to confirmation by the Chief Inspector of Certified Schools.

104. Any person to whose care a child is committed under the provisions of this Act shall, while the order is in force, have the like control over the child as if he were his parent, and shall be responsible for his maintenance, and the child shall continue in his care for the period stated by the court notwithstanding that he is claimed by his parent or any other person. Control over custodian of child.

Power to authorities to send children to remand homes or voluntary homes instead of to certified schools or fit person institutions.

105. Wherever under the provisions of this Act it is provided that a child shall be committed to a certified school or a fit person institution, it shall be lawful for the authority concerned to order such child to be sent to a remand home or a voluntary home instead, if, in the opinion of such authority, such order shall be in the interest of the child.

Bonds taken under the Act.

106. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act. V of 1898.

Probation officers, Chief Inspector and Inspectors and persons authorised to be deemed to be public servants.

107. The Probation officers, Inspectors of Certified Schools including the Chief Inspector of Certified Schools and all other persons authorised or entitled to act under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of action taken under this Act.

108. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Rules.

109. (*1*) The Provincial Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters, namely :—

(*a*) the procedure to be followed by juvenile courts and other courts empowered to exercise the powers of juvenile courts under section 8 in the trial of cases and the conduct of proceedings under the Act ;

(*b*) the places at which, days on which and the manner in which a juvenile court shall hold its sittings under sub-section (*1*) of section 12 ;

(*c*) the conditions subject. to which institutions and associations shall be recognized as approved places for the purpose of sub-section (*1*) of section 20 ;

(*d*) the establishment or certification, managements, maintenance, records and accounts of certified schools ; the education and industrial training of inmates in such institutions, and their leave of absence ; the appointment of visitors and their tenure of office ; the inspection of such certified schools and other institutions for the reception of poor children ; and the internal management and discipline of schools either established or certified by the Provincial Government, and release on license of inmates therein ;

(*e*) the conditions subject to which institutions and associations shall be recognised as " fit person institutions " and " approved places " under section 27 ;

(*f*) the powers and duties of Chief Inspectors, Inspectors and Assistant Inspectors of Certified Schools and Probation officers under section 39 ;

(*g*) the recruitment and training of personnel responsible for work under the Act ;

(*h*) the conditions in which societies may be recognised by the Provncial Government for providing Probation officers, their employment and matters incidental to their appointment, authorization, resignation and removal, and the remuneration and expenses payable to them ;

(*i*) the manner of authorising persons for the purposes of sections 40 and 78 ;

(*j*) the manner in which a child or youthful offender shall be sent back to his native place under sections 46 and 73 ;

(*k*) the manner in which children shall be detained in custody by officers in charge of police stations or sections under sub-section (*1*) and the manner in which children shall be ordered to be detained by courts under sub-section (*2*), of section 65 ;

(*l*) the manner in which a child shall be ordered to be committed to a certified school or fit person institution or to the care of a relative or other fit person under clauses (*a*) and (*b*) of, and the form of bond under the proviso to section 81 ;

(*m*) the manner in which a child shall be remanded under sub-section (*1*) of section 87 ;

(*n*) the manner in which contribution for the maintenance of a child may be ordered to be paid under sub-section (*1*) of section 90 ;

(*o*) the conditions under which a child may be released from a certified school or fit person institution on licence and the form and conditions of such licence under sub-section (*1*) of section 92 ;

(*p*) the conditions subject to which children may be committed to the care of persons under this Act and the obligations of such persons towards the children so committed ;

(*q*) any other matter which is or may be prescribed under the Act.

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.

(*4*) The rules made under this Act shall be published in the *Official Gazette* and on such publication shall have effect as if enacted in this Act.

Bom. XIII of 1924.

110. The Bombay Children Act, 1924, is hereby repealed :

Repeal of Bom. XIII of 1924.

Provided that—

(*a*) juvenile courts established under the repealed Act shall be deemed to be juvenile courts established under this Act ;

(*b*) cert fied schools established or certified fit person institutions, remand homes, approved places and voluntary homes recognized under the repealed Act shall be deemed to be recognized under this Act ;

(*c*) all licences and certificates granted and transfers made under the repealed Act shall be deemed to be granted or made under this Act ;

(*d*) all cases, proceedings and appeals pending before any court under the repealed Act shall be continued and disposed of by the said courts notwithstanding anything in this Act as if they were cases, proceedings and appeals under this Act ;

(*e*) all appeals against orders of courts appointed under the repealed Act which would have lain under that Act shall be deemed to be appeals from orders made by courts under this Act and shall be presented to the courts empowered to hear appeals under this Act and shall be disposed of accordingly ;

(*f*) any appointment, notification, notice, order, rule or form made or issued under the repealed Act shall continue to be in force and be deemed to have been made or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act and shall continue to be in force unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued unde this Act.

THE BOMBAY KHAR LANDS ACT, 1948.

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BOMBAY ACT No. LXXII OF 1948.[1]

[THE BOMBAY KHAR LANDS ACT, 1948.]

[*31st December 1948.*]

Amended by Bom. 18 of 1949.

An Act to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters.

WHEREAS it is expedient to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Province of Bombay by the construction and maintenance of embankments and for certain other matters; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Khar Lands Act, 1948.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) It shall come into force in such area and on such date as the Provincial Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Board" means the Khar Lands Development Board established under section 3;

(*b*) "Chairman" means the Chairman of the Board;

(*c*) "embankment" includes—

(*i*) every bank, dam, wall and dyke made or used for excluding water from, or retaining water upon, any tidal or khar land or for excluding salt water from entering into any adjoining sweet water nallas;

(*ii*) every sluice, spur, groyne, training-wall, berm, or other work annexed to, or portion of, any such embankment;

(*iii*) every bank, dam, dyke, wall, groyne or spur made, or erected for the protection of any such embankment or of any tidal or khar land from erosion or overflow by or of tides, waves or waters; and

(*iv*) all buildings intended for inspection and supervision;

(*d*) "khar land" means such tidal land as is made cultivable by protecting it by means of an embankment from the sea or tidal river, and includes all such land in whatever manner described, whether as khar, khajan, kharepat, gazni or otherwise;

(*e*) "member" means a member of the Board;

(*f*) "prescribed" means prescribed by rules made under this Act;

(*g*) "sea" includes bay, inlet, creek or an arm of the sea;

(*h*) "tidal land" means such parts of bed or shore of the tidal water as are covered and uncovered by the flow and ebb of the tide at ordinary spring tides together with the adjoining bed or shore not exceeding two furlongs in distance from the spring tide mark;

[1] For Statement of Objects and Reasons, *See Bombay Government Gazette*, 1948, Part V, page 354.

(*i*) "tidal water" means any part of the sea or river within the flow and ebb of the tide at ordinary spring tides;

(*j*) "unit" means a unit formed by the Board under sub-section (*2*) of section 11.

Establishment of Khar Lands Development Board.

3. (*1*) As soon as may be after the commencement of this Act, the Provincial Government shall establish the Khar Lands Development Board. The Board shall consist of a Chairman and of members as specified in sub-section (*2*).

(*2*) The Board shall consist of three *ex-officio* members and eight other members :—

(*a*) The ex-officio members shall be :—

(*i*) Secretary to the Government of Bombay, Revenue Department;

(*ii*) Secretary to the Government of Bombay, Agriculture and Rural Development Department;

(*iii*) Director of Agricultural Engineering, Bombay Province.

(*b*) The other members shall be eight in number, two each representing the Thana and the Kolaba districts and one each representing the Surat, Broach, Ratnagiri and Kanara districts.

(*3*) The members other than the *ex-officio* members shall be selected by the Provincial Government from a panel of representatives elected in the prescribed manner by the landlords and tenants of lands in a unit :

Provided that the Provincial Government may, in establishing the Board for the first time immediately after the coming into force of this Act, nominate the said eight members in the same proportion to represent the said districts.

(*4*) The names of members selected or nominated under sub-section (*3*) shall be published in the *Official Gazette*.

(*5*) The members other than *ex-officio* members shall possess such qualifications as may be prescribed.

Term of office; vacancies.

4. (*1*) The members other than *ex-officio* members shall hold office for a period of three years from the date of the publication of their names under sub-section (*4*) of section 3 :

[1][Provided that such members of the Board established for the first time immediately after the coming into force of this Act shall in the first instance be appointed for a period of one year, but shall be eligible for re-appointment every year for the total period not exceeding five years from the date of the establishment of the Board.]

(*2*) If any such member—

(*a*) dies; or

(*b*) is absent from the meetings of the Board for more than three consecutive meetings of the Board; or

(*c*) leaves the Province of Bombay with the intention of being absent therefrom for more than three consecutive months; or

(*d*) resigns; or

(*e*) refuses to act or becomes incapable of acting, his office shall thereupon become vacant.

[1] This proviso was substituted for the original by Bom. 18 of 1949, s. 2.

(*3*) All casual vacancies among the members other than the *ex-officio* members shall be filled up as soon as it conveniently may be by selection in the manner specified in sub-section (*3*) of section 3 ; and the person selected to a casual vacancy shall hold office so long as the member in whose place he is selected would have held it if the vacancy had not occurred.

(*4*) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

5. Notwithstanding anything contained in section 3 or 4, if the landlords and tenants of lands in a unit fail to elect a panel of representatives or if any of the representatives so elected refuse to act as members, the Provincial Government may nominate such persons as members who in its opinion are suitable to represent the interest of landlords and tenants in the said unit. Power of Provincial Government to nominate members in certain circumstances.

6. The Board constituted under section 3 shall be a body corporate by the name of "The Khar Lands Development Board" and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both moveable and immovable and to contract and to do all things necessary for the purposes of this Act. Incorporation of Board.

7. (*1*) The Board may with the previous sanction of the Provincial Government make by-laws consistent with this Act and the rules made thereunder for all or any of the following matters :— Power of Board to make by-laws.

(*a*) the manner in which its business shall be transacted ;

(*b*) the definition of its power to enter into contracts, which shall be binding on it and the manner in which such contracts shall be executed ;

(*c*) any other matter for which provision is required to be made for the efficient discharge of its duties or business.

(*2*) The Board may also make regulations for carrying out the objects of a scheme which has come into force under this Act.

8. [2]* The Provincial Government shall appoint a Chairman. The Chairman so appointed shall hold office for a period of three years from the date of his appointment : Appointment of Chairman[1]*.

[3][Provided that the Chairman of the Board established for the first time immediately after the coming into force of this Act shall in the first instance be appointed for a period of one year, but shall be eligible for reappointment every year for the total period not exceeding five years from the date of his appointment.]

[2]* * * * * *

9. (*1*) The Provincial Government may appoint [5][the Secretary and] such other officers and servants as may be required to enable the Board to discharge its functions under this Act. Appointment of [4]* officers and servants.

(*2*) The Board may, with the previous sanction of the Provincial Government, consult such technical advisers, as it thinks necessary for the purpose of carrying out the objects of this Act and they shall be paid such remuneration as may be determined by the Board with the previous sanction of the Provincial Government.

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[1] The words "and Secretary" were omitted by Bom. 18 of 194 , s. 3.
[2] The brackets and figure "(*1*)" and sub-section (*2*) were omitted, *ibid.*
[3] This proviso was substituted for the original, *ibid.*
[4] The word "other" was omitted, *ibid.*, s. 4.
[5] These words were inserted, *ibid.*

(*3*) The officers and servants [1][appointed under sub-section (*1*)] shall be the servants of the Provincial Government and they shall draw their pay and allowances from the Provincial revenues.

Board to pay costs on account of pay, pension, etc., of officers and servants.

10. The Board shall pay every year out of its fund to the Provincial Government such cost as the Provincial Government may determine on account of the pay, pension, leave and other allowances of the officers and servants appointed under this Act.

Powers and duties of Board.

11. (*1*) It is shall be the duty of the Board to promote the development of khar lands in the most efficient and economical manner.

(*2*) Without prejudice to the generality of the foregoing power, the Board may—

(*a*) cause survey to be made of all the khar and tidal lands in the Province to which this Act applies ;

(*b*) prepare a list of—

(*i*) all embankments,

(*ii*) the lands benefited or to be protected by each such embankment,

(*iii*) the names of landlords and tenants of such lands ;

(*c*) from units having regard to the contours of embankments constructed or to be constructed for the protection of lands and the homogeneity of the plots of lands protected or to be protected thereby ;

(*d*) prepare schemes for the construction, maintenance, and preservation of embankments and other prescribed objects ;

(*e*) remove encroachments on inland waterways ;

(*f*) supervise all work in connection with the better cultivation of khar lands ;

(*g*) reclaim tidal lands for the purpose of bringing them under cultivation ; and

(*h*) generally do all that is necessary for carrying out the objects of the Act.

Power of Board to prepare scheme.

12. (*1*) The Board may prepare a scheme for each unit for the purpose of carrying out its duties under section 11.

(*2*) A scheme prepared under sub-section (*1*) shall contain the following particulars, namely :—

(*i*) the objects of the scheme ;

(*ii*) the approximate area of the lands likely to be included in or affected by the scheme ;

[1] This portion was inserted by Bom. 18 of 1949, s. 3.

(*iii*) a plan showing the approximate area included in or affected by the scheme;

(*iv*) the persons, including the Crown, affected by the scheme;

(*v*) the kind of embankment to be constructed or maintained under the scheme;

(*vi*) a detailed estimate of the cost of the scheme;

(*vii*) such other particulars as may be prescribed.

13. (*1*) The scheme prepared under section 12 shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate. Publication of scheme.

(*2*) The Board shall, on publication of the scheme, require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to such person as the Board may authorize in this behalf or appear before him within one month of the publication of the scheme in the *Official Gazette* under sub-section (*1*) or within fifteen days from the date of the publication of the scheme in the village under sub-section (*1*) whichever period expires later.

14. (*1*) The person authorized under sub-section (*2*) of section 13 shall hear such objections as are made to him in person, consider all objections duly submitted under the said sub-section (*2*) and submit his report together with the objections to the Board. Report of authorized person.

(*2*) Such person may, while submitting his report under sub-section (*1*), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme prepared by the Board under section 12.

15. (1) After consideration of the objections and the report submitted to it under sub-section (*1*) of section 14, the Board shall within the period prescribed submit the draft scheme with any modifications which it may have made therein together with the objections forwarded to it, to the Provincial Government and shall at the same time apply for its sanction. Power of Provincial Government to sanction scheme with or without modification.

(*2*) After receiving such application and after making such inquiry, as it may think fit, the Provincial Government may within the period prescribed sanction the scheme with or without modification and subject to such conditions as it may think fit to impose or refuse to give sanction.

(*3*) If the scheme is sanctioned under sub-section (*2*), it shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate.

(*4*) In considering the objections, the decision of the Board on the question whether or not any land included in the scheme, is benefited by, or will be protected under, the scheme shall be conclusive evidence on the question.

16. On the date on which the scheme is published in the *Official Gazette* under sub-section (*3*) of section 15 it shall come into force and shall have effect as if it were enacted in this Act. Effect of scheme.

Execution of scheme.

17. After the scheme has come into force under section 16, the Board shall execute the scheme in accordance with the rules prescribed in that behalf.

Power of Board to make regulations.

18. For the purpose of carrying out the objects of the scheme which has come into force under section 16, the Board may make regulations requiring any person or class of persons who in the opinion of the Board is or are interested in or affected by the scheme or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

Committees for units.

19. The Board shall appoint a Committee for each unit to be constituted in the prescribed manner and it shall be the duty of the Committee so appointed to maintain and repair embankments included in the unit to which the scheme relates. The Committee shall exercise such powers and perform such other duties as the Board may determine.

Acquisition of land, right or interest.

20. If at any time, on an application of the Board, it appears to the Provincial Government that any land or the right or interest of any person in any land should for the purposes of any scheme under the Act be compulsorily acquired, it shall be lawful for the Provincial Government to publish a notification to that effect in the *Official Gazette*. The notification so published shall be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, and shall be conclusive as if it was made under the said provision and the land, right or interest in the land shall be deemed to be needed for a public purpose within the meaning of the said Act. On the publication of the notification, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the said Act shall *mutatis mutandis* apply to the determination of the amount of compensation, the apportionment of the compensation and other matters relating to the acquisition of the said land, right or interest. The Provincial Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest : I of 1894.

Provided that where any land which is acquired has remained fallow for three successive years immediately preceding the date of the notification, the market value of such land shall not be assessed to be more than twice the amount of annual assessment payable in respect thereof.

Claim for compensation for consequential damage.

21. Subject to the provisions of section 23, whenever any land other than land acquired for the purposes of this Act or any right of fishery, right of drainage, right of the use of water or other right of property shall have been injuriously affected by any act done, or any scheme executed, under the provisions of this Act, the person in whom such property or right is vested may prefer a claim in writing to the Collector for compensation and thereupon the provisions of the Land Acquisiton Act, 1894, shall, so far as may be, *mutatis mutandis*, apply for the determination of the compensation, apportionment and payment thereof. I of 1894.

Limitation to claim for compensation.

22. No claim under section 21 shall be entertained if it is made later than two years next after the completion of the work by which such right is injuriously affected.

No compensation in certain cases for use or removal of earth.

23. Any land which, before the commencement of this Act, has been used for the purpose of obtaining earth or other materials for the construction or repair of any embankment shall be deemed to be at the disposal of the Board for such purpose without payment of compensation for the use or removal of such earth or other materials.

24. (*1*) Notwithstanding any custom, usage, law or contract to the contrary no person shall fish or exercise the right of fishery in any water on any tidal or khar land to which the provisions of this Act apply except under a licence granted by the Board in this behalf. Power of Board to regulate fishing rights.

(*2*) The licence granted under sub-section (*1*) shall be granted on the payment of such fees and subject to such restrictions and on such conditions and shall be in such form and contain such particulars as may be prescribed.

25. (*1*) The cost of the scheme which has come into force under section 16 shall be met by a contribution by the Provincial Government and the landlords and tenants in the proportion specified in sub-section (*2*). Contribution towards cost of scheme.

(*2*) The Provincial Government may contribute 40 per cent. of the cost and the landlords and tenants shall respectively contribute 40 per cent. and 20 per cent. of such cost :

Provided that in any case where any land included in the scheme has not been leased to a tenant, the contribution to be borne by the owner of the land shall be 60 per cent. of such cost :

Provided further that the Provincial Government may prescribe by rules made in this behalf the manner in which the contribution of 20 per cent. may be levied from tenants and to the extent of the same percentage from owners in lieu of cash payment.

26. The landlords and tenants of lands who are not able to pay their share of the contribution towards the cost of the scheme under section 25 may within the prescribed period make an application to the Provincial Government for the grant of a loan for the purpose of paying their share of such contribution. Application for loan.

27. When an application for a loan is made under section 26, the Provincial Government may grant the loan in accordance with the rules from time to time made in this behalf. Power of Provincial Government to grant loans.

28. Every loan made in accordance with such rules, all interest (if any) chargeable thereon and the costs (if any) incurred in making or recovering the same shall, when they become due, be recoverable from the person to whom the loan was made, or from any person who has become surety for the repayment thereof, as if they were arrears of land revenue or costs incurred in recovering the same due by the person to whom the loan was made or by his surety. Recovery of loans.

29. When a loan is granted under section 27 to persons on such terms that all of them are jointly and severally bound to the Provincial Government for the payment of the whole amount payable in respect thereof, and a statement showing the portion of that amount which as among themselves each is bound to contribute is entered upon the order granting the loan and is signed, marked or sealed by each of them or his agent duly authorized in this behalf and by the officer making the order, that statement shall be conclusive evidence of the portion of that amount which as among themselves each of those persons is bound to contribute. Liability of joint borrowers as among themselves.

Forfeiture of lease of land for failure to pay contribution.

30. If any person holding any land on lease from the Provincial Government fails to pay his share of the contribution under section 25 in respect of such land, within such time as the Provincial Government may fix to the Provincial Government, the Collector may dispose of the land in accordance with the rules made in this behalf under section 46. Such lease shall be determined by forfeiture to the Provincial Government, notwithstanding anything contained in any law for the time being in force and unless the Collector otherwise directs, be freed from all rights, incumbrances and equities theretofore, created in favour of any person other than the Crown in respect of such land.

Levy of annual contribution.

31. (*1*) All landlords and tenants and all owners of lands benefited or protected by embankments included in a scheme under this Act shall pay to the Board an annual contribution which shall be levied and paid in such manner and at such rate and subject to such conditions, if any, as may be prescribed.

(*2*) The decision of the Board on the question whether any land is benefited or protected by an embankment under this Act shall be conclusive evidence on such question.

Presentation of budget estimates.

32. The budget estimates of the Board for each financial year shall be presented to the Board before the 1st day of March in the preceding financial year by the Chairman, and the budget as finally passed shall be subject to the approval of the Provincial Government which shall have power to reduce any item in the estimates of expenditure and to restore any provision which it considers to be essential for the safe and efficient conduct of the business of the Board.

Restriction on unbudgeted expenditure.

33. (*1*) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding Rs. 25,000 shall be expended by the Board unless such sum has been included in the budget approved by the Provincial Government under section 32.

(*2*) Where any such sum is expended under circumstances of extreme urgency a report thereon shall be made as soon as practicable to the Provincial Government.

Custody and disbursement of monies.

34. (*1*) All monies received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury.

(*2*) All funds for disbursement shall be drawn by means of cheques which shall be signed by the Chairman of the Board or such other member of the Board as the Chairman may, with the approval of the Board, authorize in this behalf.

Provisions for audit.

35. The accounts of the Board shall be maintained in such form and shall be subject to such audit, by such agency and on such terms and conditions as the Provincial Government may prescribe.

Supply of copies of budget and accounts.

36. The Board shall furnish each financial year to the Provincial Government a copy of its budget and of the accounts of the preceding financial year.

Fund.

37. (*1*) The Board shall have its own fund and the following monies shall be placed to the credit thereof—

(*a*) the fees received under section 24;

(*b*) all contributions paid to the Board under section 25; and

(*c*) seventy-five per cent. of the annual contributions paid to the Board under section 31.

(*2*) The balances of the fund and the interest accruing thereon shall be expended by the Board in such manner and for such purposes as may be prescribed.

Sinking fund.

38. The Board shall have also a sinking fund to which shall be credited twenty-five per cent. of the annual contributions paid to the Board under section 31. The Board may apply the sinking fund to the repair of breaches in embankments included in a scheme caused by tempest, flood or other irresistible force and to such other purposes as may be prescribed.

Penalty.

39. Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 16 or any of the regulations made under section 18 or does any act which causes damage to any of the works carried out under the scheme or obstructs any person in the due exercise of his powers or execution of his duties under this Act or contravenes the provisions of any rules made, or fails to comply with the conditions of a licence granted, under this Act, shall, on conviction, be punishable with imprisonment for a term which may extend to one month or with fine which may extend to fifty rupees or with both.

Recovery of amounts due.

40. Save as otherwise expressly provided in section 30, all amounts due under this Act shall be recoverable as arrears of land revenue.

Right of entry.

41. For the purpose of preparing, sanctioning or executing any scheme or otherwise for carrying out the objects of this Act, any person duly authorized by the Board or the Committee appointed by the Board under this Act may, after giving such notice as may be prescribed, to the owner or occupier or other person interested in any land enter upon, survey and mark out such land and do all acts necessary for such purposes.

Inquiries to be held summarily.

42. (*1*) The person authorized under sub-section (*2*) of section 13 shall, if he desires to make any inquiry, make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of a summary inquiry shall, so far as may be, apply.

Bom. V of 1879.

(*2*) Such person as well as the Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Registration of document, plan or map in connection with scheme not required.

43. (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force.

XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purposes of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act:

XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

Certain persons to be public servants.

44. The Chairman, members and Secretary of the Board, the members of any committee or officers appointed by the Board and the person authorized under sub-section (*2*) of section 13 shall be deemed to be public servants within the meaning of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith.

45. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorized under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(*2*) No suit or prosecution shall be instituted against any public servant or person duly authorized under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Rules.

46. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters :—

(*a*) the manner of electing panel of representatives by landlords and tenants of a unit under sub-section (*3*), and the qualifications to be possessed by non-official members of the Board under sub-section (*5*), of section 3 ;

(*b*) the other objects for which a scheme may be prepared by the Board under clause (*d*) of sub-section (*2*) of section 11 ;

(*c*) the other particulars to be prescribed under clause (*vii*) of sub-section (*2*) of section 12 ;

(*d*) the period within which the Board shall submit the draft scheme, and the period within which the Provincial Government may sanction the draft scheme, under section 15 ;

(*e*) execution of a scheme under section 17 ;

(*f*) the manner of constituting a committee for each unit under section 19 ;

(*g*) matters connected with the acquisition of land, right or interest under section 20 ;

(*h*) the fees for the grant of a licence, the restrictions subject to which and the conditions on which a licence shall be granted, the form of the licence and the particulars to be contained therein, under section 24 ;

(*i*) the manner in which the contribution of 20 per cent. may be levied from tenants and to the extent of the same percentage from owners in lieu of cash payment under section 25 ;

(*j*) the period within which an application for a loan may be made under section 26 ;

(*k*) grant of a loan under section 27 ;

(*l*) disposal of land under section 30 ;

(*m*) the manner in which, the rate at which and the conditions subject to which the annual contribution shall be levied and paid under sub-section (*1*) of section 31 ;

(*n*) the form of accounts to be maintained, the agency of audit and the terms and conditions of audit, under section 35 ;

(*o*) the manner in which and the purposes for which balances of the fund and the interest accruing thereon shall be expended under sub-section (*2*) of section 37 ;

(*p*) the other purposes for which sinking fund may be applied under section 38 ;

(*q*) the notice to be given under section 41 ;

(*r*) the manner in which the documents, plans and maps relating to the sanctioned scheme shall be accessible to the public under the proviso to sub-section (*2*) of section 43 ;

(*s*) any other matter which is or may be prescribed under this Act.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

BOMBAY ACT No. LXXVIII OF 1948.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY THIRD AMENDMENT) ACT, 1948.]

[*31st December 1948.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Code of Criminal Procedure (Bombay Third Amendment) Act, 1948.

Insertion of new section 539C in Act V of 1898.

V of 1898. 2. After section 539B of the Code of Criminal Procedure, 1898, the following section shall be inserted, namely :—

Other powers of Magistrates.

"539C. Any Magistrate shall be entitled to attest, verify or authenticate documents brought before him for the purpose of attestation, verification or authentication, as the case may be, and to affix seals thereon, as may be prescribed by the Bombay Public Authorities Seals Act, 1883, or any other law for the time being in force."

Bom. V of 1883.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V. p. 560.

THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.

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BOMBAY ACT No. LXXIX OF 1948.[1]

[THE BOMBAY SHOPS AND ESTABLISHMENTS ACT, 1948.]

[*11th January 1949.*]

Amended by Bom. 17 of 1949.

An Act to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments.

WHEREAS it is expedient to consolidate and amend the law relating to the regulation of conditions of work and employment in shops, commercial establishments, residential hotels, restaurants, eating houses, theatres, other places of public amusement or entertainment and other establishments and for certain other purposes hereinafter specified; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (*1*) This Act may be called the Bombay Shops and Establishments Act, 1948. Short title, extent and operation.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall in the first instance come into force in the local areas specified in Schedule I.

(*4*) The Provincial Government shall by notification published in the *Official Gazette* direct that all or any of the provisions of this Act shall come into force in such other local areas having a population of twenty-five thousand and more as may be specified in the notification.

(*5*) The Provincial Government may also by a like notification direct that all or any of the provisions of this Act shall come into force in such local areas having population less than twenty-five thousand as may be specified in the notification.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Apprentice" means a person who is employed, whether on payment of wages or not, for the purpose of being trained in any trade, craft or employment in any establishment;

(*2*) "Child" means a person who has not completed his twelfth year;

(*3*) "Closed" means not open for the service of any customer or open to any business connected with the establishment;

(*4*) "Commercial establishment" means an establishment which carries on any business, trade or profession or any work in connection with, or incidental or ancillary to, any business, trade or profession and includes a society registered under the Societies Registration Act, 1860, and a charitable or other trust, whether registered or not, which carries on any business, trade or profession or work in

XXI of 1860.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 499.

connection with or incidental or ancillary thereto buttoes not include a factory, shop, residential hotel, restaurant, eating house, d theare or other place of public amusement or entertainment;

(*5*) "Day" means the period of twenty-four hours beginning at midnight:

Provided that in the case of an employee whose hours of work extend beyond midnight, day means the period of twenty-four hours beginning when such employment commences irrespective of midnight;

(*6*) "Employee" means a person wholly or principally employed in, and in connection with, any establishment and includes an apprentice but does not include a member of the employer's family;

(*7*) "Employer" means a person owning or having ultimate control over the affairs of an establishment;

(*8*) "Establishment" means a shop, commercial establishment, residential hotel, restaurant, eating house, theatre, or other place of public amusement or entertainment to which this Act applies and includes such other establishment as the Provincial Government may, by notification in the *Official Gazette*, declare to be an establishment for the purposes of this Act;

(*9*) "Factory" means any premises which is a factory within the meaning of [1][clause (*m*) of section 2 of the Factories Act, 1948, or which is deemed to be a factory under section 85 of the said Act;] LXIII of 1948.

(*10*) "Goods" includes all materials, commodities and articles;

(*11*) "Holiday" means a day on which an establishment shall remain closed or on which an employee shall be given a holiday under the provisions of this Act;

(*12*) "Inspector" means an Inspector appointed under section 48;

(*13*) "Leave" means leave provided for in Chapter VII of this Act;

(*14*) "Local area" means any area or combination of areas to which this Act applies;

(*15*) "Local authority" means a municipality constituted under the City of Bombay Municipal Act, 1888, the Bombay District Municipal Act, 1901, or the Bombay Municipal Boroughs Act, 1925, or a local board constituted under the Bombay Local Boards Act, 1923; Bom. III of 1888. Bom. III of 1901. Bom. XVIII of 1925. Bom. VI of 1923.

(*16*) "Manager" means a person declared to be a manager under section 7;

(*17*) "Member of the family of an employer" means the husband, wife, son, daughter, father, mother, brother or sister of an employer who lives with and is dependent on such employer;

(*18*) "Opened" means opened for the service of any customer;

(*19*) "Period of work" means the time during which an employee is at the disposal of the employer;

(*20*) "Prescribed" means prescribed by rules made under this Act;

(*21*) "Prescribed authority" means the authority prescribed under the rules made under this Act;

[1] This portion was substituted for the original by Bom. 17 of 1949, s, 2.

(*22*) "Register of establishments" means a register maintained for the registration of establishments under this Act;

(*23*) "Registration certificate" means a certificate showing the registration of an establishment;

(*24*) "Residential hotel" means any premises used for the reception of guests and travellers desirous of dwelling or sleeping therein and includes a club;

(*25*) "Restaurant or eating house" means any premises in which is carried on wholly or principally the business of the supply of meals or refreshments to the public or a class of the public for consumption on the premises;

(*26*) "Schedule" means a Schedule appended to this Act;

(*27*) "Shop" means any premises where goods are sold, either by retail or wholesale or where services are rendered to customers, and includes an office, a store room, godown, warehouse or work place, whether in the same premises or otherwise, used in connection with such trade or business but does not include a factory, a commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment;

(*28*) "Spread over" means the period between the commencement and the termination of the work of an employee on any day;

(*29*) "Theatre" includes any premises intended principally or wholly for the exhibition of pictures or other optical effects by means of a cinematograph or other suitable apparatus or for dramatic performances or for any other public amusement or entertainment;

IV of 1936.

(*30*) "Wages" means wages as defined in the Payment of Wages Act, 1936;

(*31*) "Week" means the period of seven days beginning at midnight of Saturday;

(*32*) "Year" means a year commencing on the first day of April;

(*33*) "Young person" means a person who is not a child and has not completed his seventeenth year.

Reference to time of day.

3. References to the time of day in this Act are references to Indian standard time which is five and a half hours ahead of Greenwich mean time.

Exemptions.

4. Notwithstanding anything contained in this Act, the provisions of this Act mentioned in the third column of Schedule II shall not apply to the establishments, employees and other persons mentioned against them in the second column of the said Schedule:

Provided that the Provincial Government may, by notification published in the *Official Gazette*, add to, omit or alter any of the entries of the said Schedule and on the publication of such notification, the entries in either column of the said Schedule shall be deemed to be amended accordingly.

Application of Act to other establishments and persons.

5. (*1*) Notwithstanding anything contained in this Act, the Provincial Government may, by notification in the *Official Gazette*, declare any establishment or class of establishments to which, or any person or class of persons to whom, this Act or any of the provisions thereof does not for the time being apply, to be an establishment or class of establishments or a person or class of persons to which or whom this Act or any provisions thereof with such modifications or adaptations

as may in the opinion of the Provincial Government be necessary shall apply from such date as may be specified in the notification.

(*2*) On such declaration under sub-section (*1*), any such establishment or class of establishments or such person or class of persons shall be deemed to be an establishment or class of establishments to which, or to be an employee or class of employees to whom, this Act applies and all or any of the provisions of this Act with such adaptation or modification as may be specified in such declaration, shall apply to such establishment or class of establishments or to such employee or class of employees.

Suspension of all or any of the provisions of this Act.

6. The Provincial Government may, by notification in the *Official Gazette*, suspend the operation of all or any of the provisions of this Act for such period and subject to such conditions as it deems fit on account of any holidays or occasions.

CHAPTER II.

REGISTRATION OF ESTABLISHMENTS.

Registration of establishments.

7. (*1*) Within the period specified in sub-section (*4*), the employer of every establishment shall send to the Inspector of the local area concerned a statement, in a prescribed form, together with such fees as may be prescribed, containing—

(*a*) the name of the employer and the manager, if any;

(*b*) the postal address of the establishment;

(*c*) the name, if any, of the establishment;

(*d*) the category of the establishment, *i.e.*, whether it is a shop, commercial establishment, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment; and

(*e*) such other particulars as may be prescribed.

(*2*) On receipt of the statement and the fees, the Inspector shall, on being satisfied about the correctness of the statement, register the establishment in the register of establishments in such manner as may be prescribed and shall issue, in a prescribed form, a registration certificate to the employer. The registration certificate shall be prominently displayed at the establishment.

(*3*) In the event of any doubt or difference of opinion between an employer and the Inspector as to the category to which an establishment should belong, the Inspector shall refer the matter to the prescribed authority which shall, after such inquiry as it thinks proper, decide the category of such establishment and its decision shall be final for the purposes of this Act.

(*4*) Within thirty days from the date mentioned in column 2 below in respect of an establishment mentioned in column 1, the statement together with fees shall be sent to the Inspector under sub-section (*1*):—

1 Establishments.	Date from which the period of 30 days to commence.
(*i*) Establishments existing in local areas mentioned in Schedule I on the date on which this Act comes into force.	The date on which this Act comes into force.
(*ii*) Establishments existing in local areas on the date on which this section comes into force.	The date on which this section comes into force in the local area.

Establishments.	Date from which the period of 30 days to commence.
(*iii*) New establishments in local areas mentioned in Schedule I and other local areas in which this section has come into force.	The date on which the establishment commences its work.

8. It shall be the duty of an employer to notify to the Inspector, in a prescribed form, any change in respect of any information contained in his statement under section 7 within seven days, after the change has taken place. The Inspector shall, on receiving such notice and the prescribed fees and on being satisfied about its correctness, make the change in the register of establishments in accordance with such notice and shall amend the registration certificate or issue a fresh registration certificate, if necessary. Change to be communicated to Inspector.

9. The employer shall, within ten days on his closing the establishment, notify to the Inspector in writing accordingly. The Inspector shall, on receiving the information and being satisfied about its correctness, remove such establishment from the register of establishments and cancel the registration certificate. Closing of establishment to be communicated to Inspector.

CHAPTER III.

SHOPS AND COMMERCIAL ESTABLISHMENTS.

10. (*1*) No shop— Opening hours of shops.

(*a*) dealing wholly in milk, vegetables, fruits, fish, meat, bread or any other goods notified by the Provincial Government shall on any day be opened earlier than 5 a.m.;

(*b*) dealing in goods other than those specified in clause (*a*) of this sub-section, shall on any day be opened earlier than 7-0 a.m.

(*2*) Subject to the provisions of sub-section (*1*), the Provincial Government may fix later opening hours for different classes of shops or for different areas or for different periods of the year.

11. (*1*) Notwithstanding anything contained in any other enactment for the time being in force, no shop— Closing hours of shops.

(*a*) dealing in goods other than those specified in clause (*b*) of this sub-section, shall on any day be closed later than 8-30 p.m.;

(*b*) dealing in *pan*, *bidi*, cigarettes, matches and other ancillary articles shall on any day be closed later than 11-0 p.m.:

Provided that any customer who was being served or was waiting to be served at such closing hour in any shop may be served in such shop during the quarter of an hour immediately following such hour.

(*2*) Subject to the provisions of sub-section (*1*), the Provincial Government may fix earlier closing hours for different classes of shops or for different areas or for different periods of the year.

Hawking prohibited before opening and after closing hours of shops.

12. (*1*) No person shall carry on in or adjacent to a street or a public place the sale of any goods before the opening and after the closing hours fixed under sections 10 and 11 for the shops dealing in the same class of goods in the locality in which such street or public place is situate.

(*2*) Any person contravening the provisions of sub-section (*1*) shall be liable to have his goods seized by an Inspector :

Provided that the goods so seized shall be returned to him on his depositing rupees twenty-five as security for his appearance in Court.

Opening and closing hours of commercial establishments.

13. (*1*) No commercial establishment shall on any day be opened earlier than 8-30 a.m. and closed later than 8-30 p.m.

(*2*) Subject to the provisions of sub-section (*1*), the Provincial Government may fix later opening or earlier closing hours for different classes of commercial establishments or for different areas or for different periods of the year.

Daily and weekly hours of work in shops and commercial establishments.

14. (*1*) Subject to the provisions of this Act, no employee shall be required or allowed to work in any shop or commercial establishment for more than nine hours in any day and forty-eight hours in any week.

(*2*) Any employee may be required or allowed to work in a shop or commercial establishment for any period in excess of the limit fixed under sub-section (*1*), if such period does not exceed three hours in any week.

(*3*) On not more than six days in a year which the Provincial Government may fix by rules made in this behalf, for purposes of making of accounts, stock taking, settlements or other prescribed occasions, any employee may be required or allowed to work in a shop or commercial establishment in excess of the period fixed under sub-section (*1*), if such excess period does not exceed twenty-four hours.

Interval for rest in shops and commercial establishments.

15. No employee shall be required or allowed to work in any shop or commercial establishment for more than five hours in any day unless he has had an interval for rest of at least one hour.

Spread-over in shops.

16. The spread-over of an employee in a shop shall not exceed eleven hours in any day :

Provided that in cases where any shop is on any day entirely closed for a continuous period of not less than three hours, the spread-over shall not exceed twelve hours in that day :

Provided also that where an employee works on any day in accordance with the provisions of sub-section (*2*) of section 14, the spread-over shall not exceed fourteen hours in any such day and where he works on any day in accordance with the provisions of sub-section (*3*) of the said section, the spread-over shall not exceed sixteen hours in any such day.

Spread-over in commercial establishments.

17. The spread-over of an employee in a commercial establishment shall not exceed eleven hours in any day :

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular commercial establishment or a class or classes of commercial establishments.

Holidays in a week in shops and commercial establishments.

18. (*1*) Every shop and commercial establishment shall remain closed on one day of the week. The employer shall fix such day at the beginning of the year, notify it to the Inspector and specify it in a notice prominently displayed in a conspicuous place in the shop or commercial establishment. The employer shall

not alter such day more often than once in three months, shall notify the alteration to the Inspector and make the necessary change in the notice in the shop or commercial establishment.

(2) It shall not be lawful for an employer to call an employee at, or for an employee to go to his shop or commercial establishment or any other place for any work in connection with the business of his shop or commercial establishment on a day on which such shop or commercial establishment remains closed.

(3) No deduction shall be made from the wages of any employee in a shop or commercial establishment on account of any day on which it has remained closed under this section. If any employee is employed on a daily wage, he shall none the less be paid his daily wage for the day on which such shop or commercial establishment remains closed.

CHAPTER IV.

Residential Hotels, Restaurants and Eating Houses.

Opening and closing hours of restaurants and eating houses.

19. (1) Notwithstanding anything contained in any other enactment for the time being in force, no restaurant or eating house shall on any day be opened earlier than 5 a.m. and closed later than 11 p.m. for service :

Provided that an employee in such restaurant or eating house may be required to commence work not earlier than 4-30 a.m. and shall not be required to work later than 11-30 p.m :

Provided also that any customer who was being served or waiting to be served at the closing hour of such restaurant or eating house may be served in such restaurant or eating house during the quarter of an hour immediately following such hour.

(2) Subject to the provisions of sub-section (1), the Provincial Government may fix later opening or earlier closing hours for different restaurants or eating houses or for different areas or for different periods of the year.

(3) Notwithstanding anything contained in this section or any other enactment for the time being in force, on not more than ten days in a year on festive or special occasions, the Provincial Government may, by notification in the *Official Gazette*, fix such opening and closing hours for different restaurants or eating houses or for different areas, as it thinks proper.

Restaurants and eating houses not to sell goods of the kind sold in shops before the opening and after the closing hours of shops.

20. Before and after the hours fixed for the opening and closing o f shop under sections 10 and 11, no goods of the kind sold in such shops shall be sold in any restaurant or eating house except for consumption on premises.

Daily hours of work in residential hotels, restaurants and eating houses.

21. (1) Except on the days that may be notified under sub-section (3) of section 19, no employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than nine hours in any day.

(2) On the days which may be notified under sub-section (3) of section 19, any employee may be required or allowed to work in a residential hotel, restaurant or eating house in excess of the period fixed under sub-section (1), if such excess period does not exceed three hours in any day.

Interval for rest.

22. No employee shall be required or allowed to work in any residential hotel, restaurant or eating house for more than five hours in any day unless he has had an interval for rest of at least one hour.

Spread-over.

23. The spread-over of an employee in a residential hotel, restaurant or eating house shall not exceed fourteen hours :

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose on the days that may be notified under sub-section (*3*) of section 19.

Holidays in a week.

24. (*1*) Every employee in a residential hotel, restaurant or eating house shall be given at least one day in a week as a holiday :

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his residential hotel, restaurant or eating house or any other place for any work in connection with the business of his residential hotel, restaurant or eating house on a day on which such employee has a holiday.

(*3*) No deduction shall be made from the wages of any employee in a residential hotel, restaurant or eating house on account of any holiday given to him under sub-section (*1*). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday.

Employer to furnish identity card to employee.

25. The employer shall furnish every employee in a residential hotel, restaurant or eating house an identity card which shall be produced by the employee on demand by an Inspector. Such card shall contain the following and such other particulars as may be prescribed, namely :—

(*a*) the name of the employer ;

(*b*) the name, if any, and the postal address, of the establishment ;

(*c*) the name and age of the employee ;

(*d*) the hours of work, the interval for rest and the holiday, of the employee.

CHAPTER V.

THEATRES OR OTHER PLACES OF PUBLIC AMUSEMENT OR ENTERTAINMENT.

Closing hour of theatres or other places of public amusement or entertainment.

26. Notwithstanding anything contained in any other enactment for the time being in force, no theatre or other place of public amusement or entertainment shall, on any day, be closed later than twelve midnight.

27. After the hour fixed for the closing of shops under section 11, no goods of the kind sold in a shop shall be sold in any theatre or other place of public amusement or entertainment except for consumption on premises.

Theatres or other places of public amusement or entertainment not to sell goods of the kind sold in shops after the closing hour of shops.

28. No employee shall be required or allowed to work in any theatre or other place of public amusement or entertainment for more than nine hours in any day.

Daily hours of work in theatres or other places of public amusement or entertainment.

29. No employee shall be required or allowed to work in any theatre or other place of public amusement or entertainment for more than five hours in any day unless he has had an interval for rest of at least one hour.

Interval for rest.

30. The spread-over of an employee in a theatre or other place of public amusement or entertainment shall not exceed eleven hours in any day :

Spread-over.

Provided that the Provincial Government may increase the spread-over period subject to such conditions as it may impose either generally or in the case of a particular theatre or other place of public amusement or entertainment.

31. (*1*) Every employee in a theatre or other place of public amusement or entertainment shall be given at least one day in a week as a holiday :

Holidays in a week.

Provided that nothing in this sub-section shall apply to an employee whose total period of employment in any week is less than six days.

(*2*) It shall not be lawful for an employer to call an employee at, or for an employee to go to, his theatre or other place of public amusement or entertainment or any other place for any work in connection with the business of his theatre or place of public amusement or entertainment on a day on which such employee has a holiday.

(*3*) No deduction shall be made from the wages of an employee in a theatre or other place of public amusement or entertainment on account of any holiday given to him under sub-section (*1*). If an employee is employed on a daily wage, he shall none the less be paid his daily wage for the holiday given to him.

CHAPTER VI.

Employment of Children, Young Persons and Women.

32. No child shall be required or allowed to work whether as an employee or otherwise in any establishment, notwithstanding that such child is a member of the family of the employer.

No child to work in any establishment.

Young persons and women to work between 6 a. m. and 7 p. m.

33. No young person or woman shall be required or allowed to work whether as an employee or otherwise in any establishment before 6 a.m. and after 7 p.m., notwithstanding that such young person or woman is a member of the family of the employer.

Daily hours of work for young persons.

34. (*1*) Notwithstanding anything contained in this Act, no young person shall be required or allowed to work, whether as an employee or otherwise, in any establishment for more than six hours in any day.

(*2*) No young person shall be required or allowed to work whether as an employee or otherwise in any establishment for more than three hours in any day unless he has had an interval for rest of at least half an hour.

CHAPTER VII.

Leave with Pay and Payment of Wages.

Leave.

35. (*1*) Every employee who has worked for not less than two hundred and seventy days during a year, shall be allowed, during the subsequent year, leave, consecutive or otherwise, for a period of not less than fourteen days, inclusive of the day or days during the period of such leave, on which, a shop or commercial establishment remains closed under sub-section (*1*) of section 18 or he is entitled to a holiday under sub-section (*1*) of section 24 or section 31 :

Provided that such leave may be accumulated up to a maximum period of twenty-eight days,

(*2*) If an employee entitled to leave under sub-section (*1*) is discharged by his employer before he has been allowed the leave, or if, having applied for and having been refused the leave, he quits his employment before he has been allowed the leave, the employer shall pay him the amount payable under section 36 in respect of the leave.

(*3*) If an employee entitled to leave under sub-section (*1*) is refused the leave, he may give intimation to the Inspector or any other officer authorized in this behalf by the Provincial Government regarding such refusal. The Inspector shall enter such intimation in a register kept in such form as may be prescribed.

Pay during leave.

36. Every employee shall be paid for the period of his leave at a rate equivalent to the daily average of his wages for the days on which he actually worked during the preceding three months, exclusive of any earnings in respect of overtime.

Payment when to be made.

37. An employee who has been allowed leave under section 35 shall, before his leave begins, be paid half the total amount due to him for the period of such leave.

Application and amendment of the Payment of Wages Act.

38. (*1*) Notwithstanding anything contained in the Payment of Wages Act, 1936, herein referred to as " the said Act ", the Provincial Government may, by notification published in the *Official Gazette*, direct that subject to the provisions of sub-section (*2*), the said Act shall apply to all or any class of establishments or to all or any class of employees to which or whom this Act for the time being applies. IV of 1936.

(*2*) On the application of the provisions of the said Act to any establishment or to any employees under sub-section (*1*), the Inspector appointed under this Act shall

be deemed to be the Inspector for the purpose of the enforcement of the provisions of the said Act within the local limits of his jurisdiction.

CHAPTER VIII.

HEALTH AND SAFETY.

39. The premises of every establishment shall be kept clean and free from effluvia arising from any drain or privy or other nuisance and shall be cleaned at such times and by such methods as may be prescribed. These methods may include lime washing, colour washing, painting, varnishing, disinfecting and deodorising. Cleanliness.

40. The premises of every establishment shall be ventilated in accordance with such standards and by such methods as may be prescribed. Ventilation.

41. (*1*) The premises of every establishment shall be sufficiently lighted during all working hours. Lighting.

(*2*) If it appears to an Inspector that the premises of any establishment within his jurisdiction are not sufficiently lighted, he may serve on the employer an order in writing specifying the measures which in his opinion should be adopted and requiring them to be carried out before a specified date.

42. In every establishment except such establishment or class of establishments as may be prescribed, such precautions against fire shall be taken as may be prescribed. Precautions against fire.

CHAPTER IX.

ENFORCEMENT AND INSPECTION.

43. Save as otherwise provided in this Act, it shall be the duty of every local authority to enforce, with in the area subject to its jurisdiction, the provisions of this Act, subject to such supervision of the Provincial Government as may be prescribed : Powers and duties of local authorities.

Provided that the local authority may by order direct that the said duty of enforcing the provisions of this Act shall be discharged, in such circumstances and subject to such conditions if any as may be specified in the order, by its Chief Executive Officer or any other officer subordinate to it :

Provided also that in respect of the areas not subject to the jurisdiction of any local authority, it shall be the duty of the Provincial Government to enforce the said provisions.

44. A local authority empowered under section 43 to enforce the provisions of this Act may, with the previous sanction of the Provincial Government, make by-laws not inconsistent with the provisions of the Act, or the rules or orders made by the Provincial Government thereunder, for the purpose of carrying out the provisions of this Act. Power to make by-laws.

Delegation.

45. (*1*) The Provincial Government may by order direct that any of its functions under any of the provisions mentioned below shall, in such circumstances and subject to such conditions, if any, as may be specified in the order, be exercised or discharged by any local authority or any officers subordinate to it, namely :—

Sub-section (*2*) of section 11, sub-section (*2*) of section 13, section 17, sub-sections (*2*) and (*3*) of section 19, section 23 and section 30.

(*2*) Nothing in this Act shall derogate from the right of the Provincial Government to exercise any or all the functions hereby delegated to any local authority or officer subordinate to it.

Power of Provincial Government to provide for performance of duties on default by local authority.

46. (*1*) If any local authority makes default in the performance of any duty imposed by or under this Act, the Provincial Government may appoint some person to perform it and may direct that the expense of performing it with a reasonable remuneration to the person appointed to perform it shall to be paid forthwith by the local authority.

(*2*) If the expense and remuneration are so paid, the Provincial Government may, notwithstanding anything contained in any law relating to the municipal fund or local fund or any other law for the time being in force, make an order directing the bank in which any moneys of the local authority are deposited or the person in charge of the local Government Treasury or of any other place of security in which the moneys of the local authority are deposited to pay such expense and remuneration from such moneys as may be standing to the credit of the local authority in such bank or may be in the hands of such person or as may from time to time be received from or on behalf of the local authority by way of deposit by such bank or person; and such bank or person shall be bound to obey such order. Every payment made pursuant to such order shall be a sufficient discharge to such bank or person from all liability to the local authority in respect of any sum or sums so paid by it or him out of the moneys of the local authority so deposited with such bank or person.

Expenses of local authority to be paid out of its fund.

47. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a municipality or a local board under and for the purposes of this Act shall be paid out of the municipal or local fund, as the case may be.

Appointment of Inspectors.

48. (*1*) Every local authority shall appoint a sufficient number of persons with the prescribed qualifications as Inspectors for the area subject to its jurisdiction as it may deem fit for the purpose of carrying out the provisions of this Act.

(*2*) In areas which are not subject to the jurisdiction of any local authority, the Provincial Government shall appoint Inspectors with the prescribed qualifications.

Powers and duties of Inspectors.

49. Subject to any rules made by the Provincial Government in this behalf, an Inspector may, within the local limits for which he is appointed,—

(*a*) enter, at all reasonable times and with such assistants, if any, being persons in the service of the Crown or of any local authority as he thinks fit, any place which is or which he has reason to believe is an establishment;

(*b*) make such examination of the premises and of any prescribed registers, records and notices, and take on the spot or otherwise evidence of any person as he may deem necessary, for carrying out the purposes of this Act; and

(*c*) exercise such other powers as may be necessary for carrying out the purposes of this Act:

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

50. Every Inspector appointed under section 48 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Inspectors to be public servants.

XLV of 1860.

51. Every employer shall on demand produce for inspection of an Inspector all registers, records and notices required to be kept under and for the purposes of this Act. Employer to produce registers, records, etc., for inspection.

CHAPTER X.

Offences and Penalties.

52. (*a*) If any employer fails to send to the Inspector a statement within the period specified in section 7 or to notify a change within the period specified in section 8 or to notify the closing of his establishment under section 9; or Contravention of certain provisions and offences.

(*b*) if in any establishment there is any contravention of any of the provisions of section 10, 11, 13, 18, 19, 20, 26, 27, 39, 40, 41 or 42 or any orders made thereunder; or

(*c*) if in any establishment any person is required or allowed to work in contravention of section 14, 15, 16, 17, 21, 22, 23, 24, 28, 29, 30 or 31; or

(*d*) if in any establishment a child or young person or woman is required or allowed to work in contravention of section 32, 33 or 34; or

(*e*) if any employer contravenes the provisions of section 51, 62 or 65; or

(*f*) if in any establishment there is any contravention of any section, rule or order for which no specific punishment is provided in this Act,

the employer and the manager shall, on conviction, each be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

53. If any person contravenes the provisions of section 12, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees. Contravention of section 12.

54. If an employee contravenes the provisions of sub-section (*2*) of section 18 24, 31 or 65, he shall, on conviction, be punished with fine which shall not be less than ten rupees and which may extend to fifty rupees. Employee contravening sections 18 (2), 24, 31 and 65.

55. If any employer or manager with intent to deceive makes, or causes or allows to be made, in any register, record or notice prescribed to be maintained under the provisions of this Act or the rules made thereunder, an entry which, to his knowledge, is false in any material particular, or wilfully omits or causes or allows to be omitted, from any such register, record or notice, an entry which is required to be made therein under the provisions of this Act or the rules made thereunder, or maintains or causes or allows to be maintained, more than one set of any register, record or notice except the office copy of such notice, or sends, or False entries by employer and manager.

causes or allows to be sent, to an Inspector, any statement, information or notice prescribed to be sent under the provisions of this Act or the rules made thereunder, which, to his knowledge, is false in any material particular, he shall, on conviction, be punished with fine which shall not be less than fifty rupees and which may extend to two hundred and fifty rupees :

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed two hundred and fifty rupees.

Enhanced penalty in certain cases after previous conviction.

56. If any employer and manager who have been convicted of any offence under sub-section (*1*) of section 10, 11, 13, 14, 18, 19, 24, 31, or 34 or under sub-section (*2*) or (*3*) of section 14 or under section 55 or under section 21, 26, 28, 32, 33, 51, 57, 62 or 65, are again guilty of an offence involving a contravention of the same provision, they shall each be punished on the second conviction with fine which shall not be less than fifty rupees and which may extend to five hundred rupees ; and if they are again so guilty, they shall each be punished on the third or any subsequent conviction with fine which shall not be less than seventy-five rupees and which may extend to seven hundred and fifty rupees :

Provided that if both the employer and the manager are convicted, the aggregate of the fine in respect of the same contravention shall not exceed five hundred rupees on second conviction and seven hundred and fifty rupees on third or any subsequent conviction :

Provided further that, for the purposes of this section, no cognisance shall be taken of any conviction made more than two years before the commission of the offence which is being punished :

Provided also that the Court, if it is satisfied that there are exceptional circumstances warranting such a course, may, after recording its reasons in writing, impose a smaller fine than is required by this section.

Penalty for obstructing Inspector.

57. Whoever wilfully obstructs an Inspector in the exercise of any power under section 49, or conceals or prevents any employee in an establishment from appearing before or being examined by an Inspector, shall, on conviction, be punished with fine which shall not be less than twenty-five rupees and which may extend to two hundred and fifty rupees.

Determinaton of employer for the purposes of this Act.

58. (*1*) Where the owner of an establishment is a firm or other association of individuals, any one of the individual partners or members thereof may be prosecuted and punished under this Act for any offence for which an employer in an establishment is punishable :

Provided that the firm or association may give notice to the Inspector that it has nominated one of its members who is resident in the Province to be the employer for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the employer for the purposes of this Act, until further notice cancelling the nomination is received by the Inspector or until he ceases to be a partner or member of the firm or association.

(*2*) Where the owner of an establishment is a company, any one of the directors thereof, or in the case of a private company, any one of the share holders thereof, may be prosecuted and punished under this Act for any offence for which the emp oyer in the establishment is punishable :

Provided that the company may give notice to the Inspector that it has nominated a director, or, in the case of a private company, a share holder who is resident in the Province to be the employer in the establishment for the purposes of this Act,

and such director or share holder shall so long as he is so resident be deemed to be the employer in the establishment for the purposes of this Act, until further notice cancelling his nomination is received by the Inspector or until he ceases to be a director or share holder.

59. (*1*) Where the employer or manager of an establishment is charged with an offence against this Act or the rules or orders made thereunder, he shall be entitled upon complaint duly made by him to have any other person whom he charges as the actual offender brought before the Court at the time appointed for hearing the charge ; and if, after the commission of the offence has been proved, the employer or manager of the establishment proves to the satisfaction of the Court— Exemption of employer or manager from liability in certain cases.

(*a*) that he has used due diligence to enforce the execution of this Act, and

(*b*) that the said other person committed the offence in question without his knowledge, consent or connivance, that other person shall be convicted of the offence and shall be liable to the like fine as if he were the employer or manager, and the employer or manager shall be discharged from any liablility under this Act.

(*2*) When it is made to appear to the satisfaction of the Inspector at any time prior to the institution of the proceedings—

(*a*) that the employer or manager of the establishment has used all due diligence to enforce the execution of this Act,

(*b*) by what person the offence has been committed, and

(*c*) that it has been committed without the knowledge, consent or connivance of the employer or manager, and in contravention of his orders,

the Inspector shall proceed against the person whom he believes to be the actual offender without first proceeding, against the employer or manager of the establishment, and such person shall be liable to the like fine as if he were the employer or manager.

60. (*1*) No prosecution under this Act or the rules or orders made thereunder shall be instituted except by an Inspector and except with the previous sanction of the Provincial Government or the local authority, as the case may be. Cognisance of offences.

(*2*) No court inferior to that of a Presidency Magistrate or a Magistrate of a Second Class shall try any offence against this Act or any rule or order made thereunder.

61. No court shall take cognisance of any offence under this Act or any rule or order made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed. Limitation of prosecutions.

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CHAPTER XI.

MISCELLANEOUS AND SUPPLEMENTAL.

62. Subject to the general or special orders of the Provincial Government, an employer shall maintain such registers and records and display on the premises of his establishment such notices as may be prescribed. All such registers and records shall be kept on the premises of the establishment to which they relate. Maintenance of registers and records and display of notices.

Wages for overtime work.

63. (*1*) Where an employee in any establishment other than a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of one and a half times his ordinary rate of wages.

(*2*) Where an employee in a residential hotel, restaurant or eating house, is required to work in excess of the limit of hours of work, he shall be entitled, in respect of the overtime work, to wages at the rate of twice his ordinary rate of wages.

Explanation.—For the purposes of this section the expression "limit of hours of work" shall mean—

(*a*) in the case of employees in shops and commercial establishments, nine hours in any day and forty-eight hours in any week;

(*b*) in the case of employees in residential hotels, restaurants, eating houses, theatres or other places of public amusement or entertainment, nine hours in any day; and

(*c*) in the case of employees in any other establishment, such hours as may be prescribed.

Evidence as to age.

64. (*1*) When an act or omission would, if a person were under or over a certain age, be an offence punishable under this Act, and such person is in the opinion of the Court apparently under or over such age, the burden shall be on the accused to prove that such person is not under or over such age.

(*2*) A declaration in writing by a [1] [qualified medical practitioner] relating to an employee that he has personally examined him and believes him to be under or over the age set forth in such declaration shall, for the purposes of this Act, be admissible as evidence of the age of the employee.

Explanation.—For the purposes of this section, a [1] [qualified medical practitioner] shall have the same meaning as in the Factories Act, [2] [1948]. L of 1

Restriction on double employment on a holiday or during leave.

65. No employee shall work in any establishment, nor shall any employer knowingly permit an employee to work in any establishment, on a day on which the employee is given a holiday or is on leave in accordance with the provisions of this Act.

Notice of dismissal.

66. No employer shall dispense with the services of an employee who has been in his continuous employment for not less than three months, without giving such person at least fourteen days' notice in writing or wages in lieu of such notice:

Provided that such notice shall not be necessary where the services of such employee are dispensed with for misconduct.

Rules.

67. (*1*) The Provincial Government may make rules to carry out the purposes of the Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely:—

(*a*) the appointment of prescribed authority under clause (*21*) of section 2;

[1] These words were substituted for the words "registered medical practitioner" by Bom. 17 of 1949, s. 3.

[2] These figures were substituted for the figures "1934", *ibid.*

(*b*) the period for which, the conditions subject to which and the holidays and occasions on which, the operation of the provisions of this Act may be suspended under section 6;

(*c*) the form of submitting a statement, the fees and other particulars under sub-section (*1*), the manner in which the registration of establishments is to be made and the form of registration certificate under sub-section (*2*), of section7; and the form for notifying a change and the fees under section 8;

(*d*) fixing six days in a year for additional overtime under sub-section (*3*) of section 14;

(*e*) fixing ten days in a year for overtime under sub-section (*3*) of section 19;

(*f*) further particulars to be prescribed for an identity card under section 25;

(*g*) the form of register for entering refusal of leave to be kept under section 35;

(*h*) fixing times and methods for cleaning the establishments under section 39; fixing standards and methods for ventilation under section 40; and prescribing such establishments as are to be exempted from the provisions of, and precautions against fire to be taken under, section 42;

(*i*) the supervision which the Provincial Government shall exercise over local authorities under section 43;

(*j*) the qualifications of Inspectors appointed under section 48 and their powers and duties under section 49;

(*k*) the registers and records to be maintained and notices to be displayed under section 62;

(*l*) the limit of hours of work under clause (*c*) of the *Explanation* to section 63;

(*m*) any other matter which is or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication and, when so made, shall be deemed to be part of this Act.

68. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act. Protection to persons acting under this Act.

69. Nothing in this Act shall affect any rights or privileges which an employee in any establishment is entitled to at the date this Act comes into force in a local area, under any other law, contract, custom or usage applicable to such establishment or any award, settlement or agreement binding on the employer and the employee in such establishment, if such rights or privileges are more favourable to him than those to which he would be entitled under this Act. Rights and privileges under other law, etc., not affected.

LXIII of 1948. **70.** Nothing in this Act shall be deemed to apply to any person employed in or within the precincts of a factory and the provisions of the Factories Act, [1][1948], shall, notwithstanding anything in the said Act, apply to such person. Persons employed in factory to be governed by Factories Act and not by this Act.

71. It shall be the duty of every local authority to submit, within three months after the close of the year, to the Provincial Government a report on the working of the Act within the local area under its jurisdiction during such year. it shall also submit to it from time to time such annual or periodical returns as may be required. Submission of annual report, etc.

Bom. XXIV of 1939. **72.** On and from the date of the commencement of this Act, the Bombay Shops and Establishments Act, 1939, shall be repealed: Repeal of Bombay Shops and Establishments Act, 1939.

Provided that—

(*a*) every appointment, order, rule, by-law, regulation, notification or notice made, issued or given under the provisions of the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been made, issued or given under the provisions of this Act, unless and until superseded

[1] These figures were substituted for the figures "1934" by Bom. 17 of 1949, s. 4.

by any appointment, order, rule, by-law, regulation, notification or notice made, issued or given under this Act;

(*b*) any proceeding relating to the trial of any offence punishable under the provisions of the Act so repealed shall be continued and completed as if the said Act had not been repealed but had continued in operation and any penalty imposed on such proceedings shall be recovered under the Act so repealed.

SCHEDULE I.

[Section 1 (*3*).]

Local areas.

1. The City of Bombay.
2. The Ahmedabad Municipal Borough and Cantonment.
3. The Poona City and Suburban Municipal Boroughs.
4. The Poona Cantonment.
5. The Sholapur Municipal Borough.
6. The Barsi Municipal Borough.
7. The Nasik Municipal Borough.
8. The Godhra Municipal Area.
9. The Surat Municipal Borough.
10. The Kalyan Municipal Area.
11. The Bandra Municipal Area.
12. The Parle-Andheri Municipal Borough.
13. The Ghatkopar-Kirol Municipal Area.
14. The Panvel Municipal Area.
15. The Kurla Municipal Area.
16. The Bulsar Municipal Area.
17. The Malegaon Municipal Area.
18. The Dhulia Municipal Area.
19. The Thana Municipal Borough.
20. The Nadiad Municipal Borough.
21. The Baramati Municipal Area.
22. The Dohad Municipal Area.
23. The Amalner Municipal Borough.
24. The Yeola Municipal Area.
25. The Kapadvanj Municipal Area.
26. The Pandharpur Municipal Borough.
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30. The Ratnagiri Municipal Area.
31. The Ahmednagar Municipal Borough.
32. The Chalisgaon Municipal Borough.
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SCHEDULE II.

(Section 4.)

Exemptions.

Serial No.	Establishments, employees or other persons.	Provisions of the Act.
1		3
	I. Establishments.	
1	Offices of the Central Government	All provisions.
2	Offices of the Provincial Government	Do.
3	Offices of local authorities	Do.
4	Offices of the Bombay Port Trust	Do.
5	Offices of any Railway administration	Do.
6	Bazars or fairs for the sale of goods for charitable or other purposes from which no profit is derived.	Do.
	II. Employees and other persons.	
7	Employees exclusively working in an establishment as clearing or forwarding clerks responsible for the despatch of goods by rail or other means of transport and for customs formalities.	Sections 10, 11, 13 to 18 (both inclusive).
8	Employees exclusively employed in any establishment in the collection, delivery or conveyance of goods outside the premises of any establishment.	Do.
9	Employees in such chemists' or druggists' establishments as are approved by the Provincial Government or the prescribed authority by a general or special order in this behalf.	Do.
10	Employees employed for the purpose of attending upon the sick, infirm, destitute or mentally unfit.	Do.
11	Employees in any establishment wholly or principally engaged in the sale of ice, aerated waters or funeral requisites.	Do.
12	Travellers, canvassers and such other employees who are declared by the Provincial Government by notification published in the *Official Gazette* in this behalf to be employees whose work is inherently intermittent.	Do.
13	Employees in stalls and refreshment rooms at railway stations, docks, wharves and airports.	Section 19.
14	Employees working in any establishment as watchmen, care-takers and messengers.	Sections 10, 11, 13 to 19 (both inclusive), 22 to 24 (both inclusive), 26, 28 to 31 (both inclusive).
15	The members of an employer's family	Sections 14 to 17 (both inclusive), 21 to 24 (both inclusive), 28 to 31 (both inclusive).
16	A person occupying position of management or an employee engaged in a confidential capacity :	Do.
	Provided that the number of such persons in any establishment shall not exceed ten per cent. of the total number of employees therein, any fraction being rounded up to the next higher integer.	

THE POONA CITY AND POONA SUBURBAN MUNICIPAL BOROUGHS (APPOINTMENT OF MUNICIPAL COMMISSIONER) ACT, 1948.

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BOMBAY ACT No. LXXX OF 1948.[1]

[THE POONA CITY AND POONA SUBURBAN MUNICIPAL BOROUGHS (APPOINTMENT OF MUNICIPAL COMMISSIONER) ACT, 1948.]

[*13th January 1949.*]

An Act to provide for the appointment of a Municipal Commissioner for the Poona City Municipal and the Poona Suburban Municipal Boroughs with a view to ensuring more efficient and suitable municipal administration for the Greater Poona region.

WHEREAS for the purpose of ensuring more efficient and suitable municipal administration for the Greater Poona region, it is necessary to take steps for the early establishment of a Municipal Corporation for the region; and whereas to this end it is necessary and expedient to provide for the appointment of a Municipal Commissioner for the executive administration of municipal affairs in the Poona City Municipal Borough and the Poona Suburban Municipal Borough and for certain other purposes hereinafter appearing; It is hereby enacted as follows :—

Short title, commencement and extent.

1. (*1*) This Act may be called the Poona City and Poona Suburban Municipal Boroughs (Appointment of Municipal Commissioner) Act, 1948.

(*2*) It shall come into operation on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

(*3*) It shall extend to the Poona City and Poona Suburban Municipal Borough.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "the Municipality" means the Poona City Borough Municipality or the Poona Suburban Borough Municipality, as the caes may be;

(*2*) "the Municipal Commissioner" means the Municipal Commissioner for the Poona City and Poona Suburban Municipal Boroughs appointed under section 3 and includes an acting Municipal Commissioner appointed under section 6;

Bom. XVIII of 1925.

(*3*) "the principal Act" means the Bombay Municipal Boroughs Act, 1925;

(*4*) words and expressions used in this Act but not defined shall have the meanings assigned to them in the principal Act.

Appointment of Municipal Commissioner.

3. (*1*) The Provincial Government shall appoint for the Poona City Municipal Borough and the Poona Suburban Municipal Borough a Municipal Commissioner who shall be designated "the Municipal Commissioner for the Poona City and Poona Suburban Municipal Boroughs".

(*2*) The Municipal Commissioner shall hold office for such period as the Provincial Government may from time to time determine.

(*3*) The Municipal Commissioner may at any time, if he holds a lien on the service of the Crown, be recalled to such service after consultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality and may otherwise at any time be removed from office by the Provincial Government for incapacity, misconduct or neglect of duty.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 525.

Salary etc., of Municipal Commissioner.

4. (*1*) The Municipal Commissioner shall receive from the Poona City Borough Municipality and the Poona Suburban Borough Municipality such monthly salary and allowances as the Provincial Government may from time to time determine.

(*2*) The proportionate share of the salary and allowances of the Municipal Commissioner payable by the Poona City Borough Municipality and the Poona Suburban Borough Municipality respectively shall be determined and shall be paid to the Municipal Commissioner from the respective municipal funds of the said municipalities in accordance with such ratio as may from time to time be prescribed by the Commissioner by order in writing.

(*3*) The Municipal Commissioner shall devote his whole time and attention to the duties of his office as prescribed in this Act or in any other law for the time being in force, and shall not engage in any other profession, trade or business whatsoever :

Provided that he may, with the sanction of the Commissioner given after consultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality, serve on any committee constituted for the purpose of any local inquiry for the furtherance of any object of local importance or interest :

Provided also that the Provincial Government may direct the Municipal Commissioner to perform such duties and functions in connection with preliminary steps to be taken for the establishment of a Municipal Corporation for the Poona City and Poona Suburban Municipal Boroughs and contiguous areas as may in its opinion be necessary.

(*4*) When a salaried servant of the Crown is appointed as the Municipal Commissioner, the Poona City Borough Municipality and the Poona Suburban Borough Municipality shall, unless specially exempted wholly or in part from liability by the Provincial Government, make such contribution from the respective municipal funds of the said municipalities to his pension, leave and other allowances as may be required by the conditions of his service under the Crown to be made by him or on his behalf, the proportionate share payable by each Municipality being determined in accordance with the ratio prescribed for the time being under sub-section (*2*).

(*5*) When a person other than a salaried servant of the Crown is appointed as the Municipal Commissioner, the Commissioner may, in consultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality, sanction the payment of such pension or gratuity or of such compassionate allowance to his family on his death by each Municipality from its municipal fund as may be specified by order in writing.

Leave of absence.

5. (*1*) The Provincial Government may from time to time after consultation with the Poona City Borough Municipality and the Poona Suburban Borough Municipality grant leave of absence to the Municipal Commissioner for such period as it thinks fit.

(*2*) The allowance to be paid to the Municipal Commissioner while absent on leave shall be such amount, not exceeding his salary, as shall be fixed by the Provincial Government and shall, unless the Municipal Commissioner is a salaried servant of the Crown, be paid by the said municipalities from their respective municipal funds, the share payable by each being determined in accordance with the ratio for

the time being prescribed under sub-section (*2*) of section 4. If the Municipal Commissioner is a salaried servant of the Crown, the amount of such allowance shall be regulated by the rules for the time being in force relating to the leave allowance of salaried servants of the Crown of his class.

Appointment of substitute during absence of Municipal Commissioner

6. During the absence on leave, or other temporary vacancy in the office of the Municipal Commissioner, the Provincial Government may appoint a fit person to act as the Municipal Commissioner and every person so appointed shall exercise the powers and perform the duties of the Municipal Commissioner under this Act or any other law for the time being in force and shall be subject to all the liabilities, restrictions and conditions to which the Municipal Commissioner is liable.

Municipal Commissioner to be deemed to be officer of Municipality for certain purposes.

7. The Municipal Commissioner shall, for the purposes of sub-section (*2*) of section 12 and sections 54, 55 and 56 of the principal Act, be deemed to be an officer of the Municipality.

Power of Municipalities to require returns, reports or production of documents.

8. The Poona City Borough Municipality or the Poona Suburban Borough Municipality may require the Municipal Commissioner to furnish it with any return, statement, estimate, statistics or other information regarding any matter appertaining to the municipal government of the Poona City Municipal Borough or the Poona Suburban Municipal Borough, as the case may be, or a report on any such matter or a copy of any document in his charge and the Municipal Commissioner shall comply with every such requisition without unreasonable delay.

Powers and duties of Municipal Commissioner.

9. (*1*) The executive power for the purpose of carrying out the provisions of the principal Act in the Poona City Municipal Borough and the Poona Suburban Municipal Borough shall vest in the Municipal Commissioner, subject, wherever it is in this Act expressly so directed, to the approval or sanction of the Municipality concerned or the standing committee concerned, and subject to all other restrictions, limitations and conditions imposed by this Act. For the purpose of discharging his functions the Municipal Commissioner shall to the exclusion of every other authority, except as hereinafter otherwise provided, exercise all the powers specifically conferred on and perform all the functions assigned to the Chief Officer of a Borough Municipality by or under the principal Act and shall also make such requisitions by written notice, give such written consent or permission, issue such orders and prohibitions, exercise such powers and perform all such duties as may be exercised, performed, made, given or issued by or on behalf of the Municipality or the standing committee under any of the provisions contained in the following sections and sub-sections of the principal Act, namely:—

section 28, sub-section (*1*), clause (*e*), so far as service of a special notice is concerned,

section 66, second proviso,

section 67,

section 81, sub-sections (*3*) and (*4*),

section 82,

section 86,

section 91,

section 97,
section 99,
section 114,
section 115,
section 116,
section 117,
section 119,
section 120,
section 126,
section 127,
section 128,
section 137,
section 140,
section 142,
section 146,
section 162, sub-section (*2*),
section 163,
section 165,
section 165A.
section 171,
section 172, sub-section (*3*),
section 178,
section 179, in respect of the powers conferred on the Municipality,
section 180,
section 182,
section 183,
section 184, in respect of the powers conferred on the Municipality,
section 186,
section 187,
section 194,
section 195,
section 200 :

Provided that—

(*a*) the powers conferred by sections 91, 114 and 146 shall not be exercised by the Municipal Commissioner except with the previous approval, or in accordance with the general or special orders, of the Municipality concerned and the powers conferred by the second proviso to section 66, sections 67 and 116 and the proviso to sub-section (*1*) of section 194 shall not be exercised by the Municipal Commissioner except with the previous approval of the standing committee concerned ;

(*b*) the Municipal Commissioner shall not, except with the previous approval of the standing committee concerned, direct a prosecution or other proceedings to be taken for the punishment of any person who contravenes the provisions of section 55 or sub-section (*3*) of section 118 ;

(*c*) property, whether moveable or immovable, vested in or belonging to or otherwise held by the Municipality concerned shall not be deemed to vest in or to belong to or otherwise to be held by the Municipal Commissioner.

(*2*) The Municipality concerned may delegate to the Municipal Commissioner any of its powers not specified in sub-section (*1*) except the powers conferred on it by or under the principal Act to make rules or by-laws and to authorise the president, vice-president, a committee or a councillor to do anything.

Powers of Municipal Commissioner in emergency.

10. Notwithstanding any provision contained in this Act or in the principal Act, the Municipal Commissioner may in cases of emergency direct the execution or stoppage of any work or the doing of any act which requires the sanction of the Municipality and the immediate execution or doing of which is, in his opinion, necessary for the health or safety of the public, and may direct that the expense of executing such work or doing such act shall be paid from the municipal fund :

Provided that—

(*a*) he shall not act under this section in contravention of any order of the Municipality concerned prohibiting the execution of any particular work or the doing of any particular act, and

(*b*) he shall report forthwith the action taken under this section and, the reason therefor to the standing committee concerned at its next meeting.

Municipal Commissioner deemed to be authorised in certain matters although not expressly so authorised.

11. The Municipal Commissioner shall be deemed to have been authorised by the Municipality concerned to exercise such powers or do such things as any officer of the Municipality has been authorised to exercise or do by the Municipality under the principal Act or any other law for the time being in force notwithstanding that the Municipality has not expressly so authorised him.

No appeal to lie against orders of Municipal Commissioner except in certain cases.

12. No appeal shall lie to the Municipality concerned in respect of any order passed or anything done by the Municipal Commissioner in the exercise of the powers conferred on him by or under this Act except in the case of an order passed or anything done by him under any of the following provisions of the principal Act, namely :—

Section 119, sub-sections (*1*) and (*2*),
Section 126, sub-section (*1*),
Section 132, sub-section (*2*),
Section 162, sub-section (*2*),
Section 186, sub-section (*1*).

Powers of Municipal Commissioner to appoint, grant leave, punish and dismiss.

13. (*1*) The Municipal Commissioner shall have, independently of such powers as may be delegated to him by the Municipality concerned in this behalf, exclusive power without the sanction of the Municipality—

(*a*) to appoint, subject to the rules for the time being in force under the principal Act in so far as such rules are not inconsistent with the provisions of this Act, a fit person to any post under the Municipality the monthly salary for which does not exceed two hundred rupees, other than to the post of health officer, engineer, chief accountant, secretary or auditor ;

(*b*) to grant, subject to the rules as aforesaid, leave of absence to the holder of any post to which he has power to appoint, and to appoint a fit person to act for such holder during such absence ;

(*c*) to fine, reduce, suspend, discharge, remove from office or dismiss the holder of any post to which he has power to appoint and, subject to the provisions of the rules as aforesaid, any other municipal officer or servant, not being the health officer, engineer, chief accountant, secretary or auditor:

Provided that no holder of a post the monthly salary for which exceeds one hundred rupees shall be discharged, removed from office or dismissed without the previous approval of the standing committee concerned.

(*2*) All officers and servants of the Municipality shall be subordinate to the Municipal Commissioner.

Punishment for person disobeying lawful direction given by Municipal Commissioner.

14. Whoever disobeys or fails to comply with a lawful direction given by the Municipal Commissioner in any matter shall be punishable in the same manner as a person who disobeys or fails to comply with a lawful direction given by the Municipality concerned in the same matter.

Termination of appointment of Chief Officers and appointment, functions and salaries of Assistant Municipal Commissioners.

15. (*1*) With effect from the date of the coming into operation of this Act, the Chief Officers of the Poona City Borough Municipality and the Poona Suburban Borough Municipality shall vacate their offices but shall be deemed to have been appointed with effect from the said date as Assistant Municipal Commissioners for the Poona City Municipal Borough and the Poona Suburban Municipal Borough respectively.

(*2*) The Assistant Municipal Commissioners so deemed to have been appointed shall be subordinate to the Municipal Commissioner and, subject to his orders, shall exercise such of the powers and perform such of the duties of the Municipal Commissioner in the Poona City Municipal Borough and the Poona Suburban Municipal Borough respectively as the Municipal Commissioner shall from time to time depute to each of them:

Provided that—

(*a*) the Municipal Commissioner shall inform the Municipality concerned of the powers and duties which he from time to time deputes to the Assistant Municipal Commissioner.

(*b*) all acts and things performed and done by the Assistant Municipal Commissioners during the tenure of their office and in virtue thereof shall for all purposes be deemed to have been performed and done by the Municipal Commissioner.

(*3*) The Assistant Municipal Commissioners deemed to have been appointed under sub-section (*1*) shall not be removed from office or suspended unless by the votes of at least two-thirds of the whole number of councillors of the Municipality concerned and shall not be punishable with fine.

(*4*) Each Assistant Municipal Commissioner shall receive from the municipal fund of the Municipality concerned such monthly salary and allowances, not lower than the salary and allowances drawn by him immediately prior to the coming into operation of this Act, as the Municipality concerned shall from time to time with the approval of the Commissioner determine.

(*5*) The Assistant Municipal Commissioners shall, except as otherwise provided in this section, be subject to the same liabilities, restrictions and conditions to which the Municipal Commissioner is subject.

16. (*1*) Leave of absence may be granted from time to time by the Municipality concerned to the Assistant Municipal Commissioner.

Leave of absence of Assistant Municipal Commissioners and acting appointments.

(*2*) The allowance to be paid to the Assistant Municipal Commissioner whilst so absent on leave shall be of such amount, not exceeding the amount of the salary of the Assistant Municipal Commissioner, as shall be fixed by the Municipality concerned.

(*3*) During the absence on leave or other temporary vacancy in the office of the Assistant Municipal Commissioner, the Municipality concerned may appoint a fit person to act as Assistant Municipal Commissioner and every person so appointed shall exercise the powers and perform the duties conferred and imposed on the person for whom he is appointed to act and shall be subject to all the liabilities, restrictions and conditions to which the said person is liable and receive from the municipal fund of the Municipality concerned such monthly salary not exceeding that prescribed under sub-section (*4*) of section 15 as the Municipality concerned shall determine.

17. With effect from the date of the coming into operation of this Act -

Certain provisions of principal Act to operate in modified form or not to operate in Poona City Municipal Borough and Poona Suburban Municipal Borough.

(*1*) section 8 of the principal Act shall apply in the Poona City Municipal Borough and the Poona Suburban Municipal Borough as if for the words "its Chief Officer" the words "the Municipal Commissioner" had been substituted ;

(*2*) clauses (*c*) and (*d*) of section 31, sub-section (*3*) of section 123 and sub-section (*2*) of section 131 of the principal Act shall cease to operate in the Poona City Municipal Borough and the Poona Suburban Municipal Borough ; and

(*3*) sections 129, 132, 133, 134, 135 and 136 of the principal Act shall apply in the Poona City Municipal Borough and the Poona Suburban Municipal Borough as if the words "subject to the control of the standing committee" wherever they occur and the words "subject as aforesaid" where they occur in section 136 had been deleted.

18. It shall be lawful for the Municipal Commissioner to direct the location of any office of either Municipality within the limits of either the Poona City Municipal Borough or the Poona Suburban Municipal Borough.

Power of Municipal Commissioner to direct location of Municipal offices in either Borough.

19. (*1*) All contracts made by the Chief Officers of the Poona City Borough Municipality and the Poona Suburban Borough Municipality subsisting on the date immediately preceding the date of the coming into operation of this Act shall be deemed to have been made by the Municipal Commissioner on behalf of the

Saving in respect of subsisting contracts, pending

proceedings, appeals, suits, appointments, licences, orders, etc.

Municipality concerned in exercise of the powers conferred on him by this Act and shall continue in operation accordingly.

(2) All proceedings pending before the said Chief Officers or the standing or other executive committees of the Municipality or the Municipality on the said date which under the provisions of this Act have to be instituted before or undertaken by the Municipal Commissioner shall be transferred to and continued by the Municipal Commissioner.

(3) All appeals against orders or decisions of the said Chief Officers or the standing or other executive committees of the Municipality pending on the said date shall be disposed of as if this Act had not come into operation.

(4) All prosecutions instituted by the said Chief Officers and all suits and other legal proceedings instituted by or against the said Chief Officers pending on the said date shall be continued by or against the Municipal Commissioner.

(5) Any appointment, notice, order, license or permission made, issued or given in respect of the Poona City Muncipal Borough or the Poona Suburban Municipal Borough which, under the provisions of this Act, has to be made, issued or given by the Municipal Commissioner shall continue in force and be deemed to have been made, issued or given under the provisions of this Act by the Municipal Commissioner until it is legally terminated, cancelled or superseded.

This Act to override principal Act and other enactments.

20. Notwithstanding anything contained in the principal Act, the provisions of this Act shall apply to the Poona City Borough Municipality and the Poona Suburban Borough Municipality and shall prevail over anything inconsistent in the principal Act or any other law for the time being in force in its application to the said Municipalities and boroughs respectively.

Removal of difficulties.

21. If any difficulty arises in giving effect to the provisions of this Act, or by reason of anything contained in this Act, to the provisions of the principal Act or any other law for the time being in force, the Provincial Government may, as occasion requires, by order do anything which appears to it necessary for the purpose of removing the difficulty.

THE BOMBAY ANIMAL PRESERVATION ACT, 1948.

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SCHEDULE.

BOMBAY ACT No. LXXXI OF 1948.[1]

[THE BOMBAY ANIMAL PRESERVATION ACT, 1948.]

[*8th February 1949.*]

An Act to provide for the preservation of animals suitable for milch, breeding or for agricultural purposes.

WHEREAS it is expedient to provide for the preservation of animals suitable for milch, breeding or for agricultural purposes; It is hereby enacted as follows:—

1. (*1*) This Act may be called the Bombay Animal Preservation Act, 1948. Short title, extent and operation.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) This section shall come into force at once. The Provincial Government may, by notification in the *Official Gazette*, direct that the rest of this Act shall come into force in such area and on such date as may be specified in the notification.

2. (*1*) This Act applies, in the first instance, to the animals specified in the Schedule. Application of Act.

(*2*) The Provincial Government may, by notification in the *Official Gazette*, apply the provisions of this Act to any other animal, which in its opinion, it is, desirable to preserve.

3. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Veterinary Officer" means an officer or person appointed or invested with powers under section 4 of this Act;

(*2*) "prescribed" means prescribed by rules made under this Act.

4. The Provincial Government may, by notification in the *Official Gazette*, appoint any officer to be a Veterinary Officer for any particular area and assign to him such powers and duties under this Act or the rules made thereunder, as it may deem fit. Appointment of Veterinary Officer.

5. (*1*) Notwithstanding any law for the time being in force or any usage to the contrary, no person shall slaughter, attempt to slaughter or cause to be slaughtered any animal unless, he has obtained in respect of such animal a certificate in writing from a Veterinary Officer appointed for the area that the animal is fit for slaughter: Prohibition against slaughter without certificate from Veterinary Officer.

Provided that an animal shall not be deemed to be fit for slaughter, if, in the opinion of the Veterinary Officer appointed for the area,—

(*a*) such animal, whether male or female, is or likely to become useful for the purpose of draught or any kind of agricultural operations;

(*b*) such animal, if male, is useful or likely to become useful for the purpose of breeding;

(*c*) such animal, if female, is useful or likely to become useful for the purpose of giving milk or bearing offspring.

(*2*) Nothing in this section shall apply to the slaughter of any animal above the age of fifteen years for *bona fide* religious purposes:

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 445.

Provided that a certificate in writing for such slaughter has been obtained from a Veterinary Officer.

(*3*) Any person aggrieved by the opinion of a Veterinary Officer that the animal is not fit for slaughter for any of the reasons specified in clauses (*a*), (*b*) and (*c*) of the proviso to sub-section (*1*) may, within fifteen days from the date of the communication of such opinion, prefer an application to the Provincial Goverment and the Provincial Government may pass such order on the application as it thinks fit.

(*4*) The Provincial Government may also at any time for the purpose of satisfying itself as to the legality or propriety of any order passed by a Veterinary Officer under sub-section (*1*) call for and examine the records of the case and may pass such order in reference thereto as it thinks fit.

(*5*) A certificate under this section shall be granted in such form and on payment of such fee as may be prescribed.

Power of Veterinary Officer or officer authorised by him to enter premises or place and inspect premises.

6. (*1*) For the purposes of this Act, a Veterinary Officer or a person authorised by him in this behalf shall have power to enter and inspect any premises or other place whereat he has reason to believe that an offence under this Act has been or is likely to be committed.

(*2*) Every person on the premises or the other place shall allow the Veterinary Officer or the person authorised access to, and to inspect, the premises or the other place and answer truthfully any question asked of him.

Penalties.

7. Whoever does any act in contravention of section 5 or 6 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Offences under this Act cognizable.

8. Offences under this Act shall be cognizable.

Veterinary Officer to be public servant.

9. Every Veterinary Officer shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith under the Act or rules.

10. No suit, prosecution or other legal proceedings shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or rules thereunder.

Power of Government to make rules.

11. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(*a*) the powers and duties of Veterinary Officers, in addition to those provided in this Act;

(*b*) the form of the certificate under section 5;

(*c*) the amount of the fee to be paid under section 5;

(*d*) any other matter which is or may be prescribed.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

12. The Provincial Government may, by notification in the *Official Gazette*, delegate— Delegation of powers and functions of Provincial Government to local authority or officer of Government.

(*i*) to any local authority, its powers and functions under section 4 within the local area subject to the jurisdiction of the local authority,

(*ii*) to any officer of the Provincial Government its powers and functions under sub-sections (*3*) and (*4*) of section 5.

13. This Act shall not apply to the slaughter of any animal operated upon for vaccine lymph, serum, or for any experimental purposes at an institution established, conducted or recognised by the Provincial Government. Saving.

14. Where any question arises whether an animal has or has not attained the age of fifteen years for the purpose of sub-section (*2*) of section 5, the opinion of the Veterinary Officer for the area shall be final and shall not be called in question in any Court. Opinion of Veterinary Officer as to age final.

SCHEDULE.

[Section 2 (*1*).]

Boines (bulls, bullocks, cows, calves, male and female buffaloes and buffalo-calves).

THE BOMBAY SUGARCANE CESS ACT, 1948.

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BOMBAY ACT No. LXXXII OF 1948.[1]

[THE BOMBAY SUGARCANE CESS ACT, 1948.]

[*17th February 1949*].

An Act to levy cess and to establish a fund for the purposes of the development and improvement of the cultivation, growth and marketing of sugarcane and other irrigated crops, for the development of sugar industry and for the improvement and development of agriculture in general.

WHEREAS it is expedient to provide for the levy of a cess and establishment of a fund for the development and improvement of the cultivation, growth and marketing of sugarcane and other irrigated crops and for the development of sugar industry and for the improvement and development of agriculture in general in the Province of Bombay; and for certain other purposes hereinafter specified; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sugarcane Cess Act, 1948.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "factory" means any premises including the precincts thereof, wherein twenty or more workers are working or were working on any day of the preceding twelve months and in any part of which any manufacturing process connected with the production of sugar by means of vacuum pans is being carried on, or is ordinarily carried on, with the aid of power;

(*2*) "local area" means any area comprised in such factories as may be specified in the notification under section 3;

(*3*) "notified factory" means a factory specified in the notification under section 3;

(*4*) "Occupier" means the person who has ultimate control over the affairs of a notified factory: Provided that where the affairs of such factory are entrusted to a managing agent, such agent shall be deemed to be the occupier;

(*5*) "maund" means a maund of 82 2/7 pounds (avoirdupois);

(*6*) "prescribed" means prescribed by rules made under this Act.

CHAPTER II.

LEVY AND COLLECTION OF CESS.

Local area.

3. The Provincial Government may by notification in the *Official Gazette*, specify any factory the area comprised in which shall be a local area for the purposes of this Act.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 567.

Imposition of cess.

4. A cess at such rate not exceeding six annas per maund as may be specified by the Provincial Government in a notification in the *Official Gazette* shall be levied on the entry of sugarcane into a local area for consumption or use therein.

Licence for consuming or using sugarcane in notified factory.

5. (*1*) After such date as the Provincial Government may, by notification in the *Official Gazette*, specify, no sugarcane shall be consumed or used in a notified factory unless the occupier thereof has obtained a licence authorising him to do so.

(*2*) An application for such licence shall be accompanied by such fee and shall be made to such authority and in such manner as may be prescribed.

(*3*) On receipt of such application and after due verification by the authority concerned, a licence shall be granted :

Provided that the authority concerned may refuse to grant a licence to any occupier, if he has already cancelled, or refused to renew a licence previously granted to such occupier.

(*4*) A licence granted under this section shall be subject to such conditions as may be prescribed and shall be valid till the 30th June next following and shall be renewable in the prescribed manner.

(*5*) If the occupier commits any breach of the conditions of this licence, the prescribed authority may, with the prior approval of the Provincial Government, cancel or refuse to renew his licence.

Returns.

6. (*1*) Every occupier shall furnish to the prescribed authority, before the seventh day of each month, a return stating the total quantity in maunds of sugarcane consumed or used by his factory during the preceding month, together with such further information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Collection of cess.

7. (*1*) On receiving any return under section 6, the prescribed authority shall assess the cess payable in respect of the period to which the return relates and if the amount has not already been paid shall cause a notice to be served upon the occupier requiring him to make payment of the amount assessed within ten days of the service of the notice.

(*2*) If the occupier fails to furnish in due time the return referred to in section 6 or furnishes a return which in the opinion of the prescribed authority is incorrect or defective, the prescribed authority shall assess the amount payable by him in such manner as may be prescribed and the provisions of sub-section (*1*) shall apply as if such assessment has been made on the basis of a return furnished by the owner :

Provided that in the case of a return which he has reason to believe is incorrect or defective, the prescribed authority shall not assess at an amount higher than that at which it is assessable on the basis of the return without giving to the occupier a reasonable opportunity of proving the correctness or completeness of the return.

(*3*) A notice under sub-section (*1*) may be served on the occupier either by post or by delivering it or tendering it to the occupier or his agent at the factory.

Finality of assessment and recovery of unpaid cess.

8. (*1*) An assessment made in accordance with the provisions of section 7 shall not be questioned in any court.

(*2*) Any occupier aggrieved by an assessment made under section 7 may, within three months of service of the notice referred to in sub-section (*1*) of that section, apply to the prescribed appellate authority for the cancellation or modification of the assessment and, on such application, the prescribed appellate authority may cancel or modify the assessment and order the refund to such occupier of the whole or part, as the case may be, of any amount paid thereunder.

(*3*) Any amount recoverable under section 7 may be recovered as an arrear of land revenue.

CHAPTER III.

MISCELLANEOUS.

Power to inspect factories and take copies of records and accounts.

9. (*1*) The prescribed authority shall have free access at all reasonable times during working hours to any notified factory or to any part thereof.

(*2*) Such authority may at any time with or without notice to the occupier, examine the working records and accounts of any notified factory and take copies of or extracts from all or any of the said records or accounts for purposes of testing the accuracy of any return for informing himself as to the particulars regarding which information is required for the purposes of this Act or any rules made thereunder.

(*3*) Where the prescribed authority proposes to examine under sub-section (*2*) any record or account containing the description or formulæ of any trade process, the owner of the notified factory may give to the said authority, for transmission to the Provincial Government, a written notice of objection and thereupon the said authority shall seal up the record or account pending the orders of the Provincial Government.

Information acquired to be confidential.

10. (*1*) All such copies and extracts and all information acquired by the prescribed authority from an inspection of any notified factory or any part thereof or from any return submitted under this Act shall be treated as confidential.

(*2*) If, save as provided in sub-section (*3*) the prescribed authority discloses to any person any such information as aforesaid without the previous sanction of the Provincial Government he shall, on conviction, be punished with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of such information in respect of the making of a false return under this Act.

Application of proceeds of cess.

11. (*1*) The proceeds of the cess and fees recovered under this Act shall first be credited to the revenues of the province and shall after deduction of the expenses of collection and recovery, be shown into a separate fund called the Provincial Sugarcane Cess Fund.

(*2*) The Fund shall be expended in such manner and under such conditions as may be prescribed for the purposes of the development and improvement of the cultivation, growth and marketing of sugarcane and other irrigated crops, for the development of sugar industry and for the improvement and development of agriculture in general in the Province of Bombay.

Penalty.

12. If the occupier consumes or uses sugarcane in a notified factory without obtaining a licence under section 5, he shall, on conviction, be punished with fine which may extend to one thousand rupees.

Determination of occupier for the purpose of Act.

13. (*1*) Where the occupier is a firm or other association of individuals, any of the individual partners or members thereof shall be responsible for the observance of the provisions of this Act and may be prosecuted and punished under this Act for any offence for which the occupier is punishable:

Provided that the firm or association may give notice to the prescribed authority that it has nominated one of its members who is resident in the Province to be occupier for the purposes of this Act and such individual shall so long as he is so resident be deemed to be the occupier for the purposes of this Act until further notice cancelling the nomination is received by the prescribed authority or until he ceases to be the partner or member of the firm or association.

(*2*) Where the occupier is a company, any one of the directors thereof, or in the case of a private company, any one of the shareholders thereof may be prosecuted and punished under this Act for any offence for which the occupier is punishable:

Provided that the company may give notice to the prescribed authority that it has nominated a director or, in the case of a private company, a shareholder who is resident in either case in the Province, to be the occupier for the purposes of this Act and such director or shareholder shall, so long as he is so resident, be deemed to be the occupier for the purposes of this Act, until further notice cancelling the nomination is received by the prescribed authority or until he ceases to be a director or shareholder.

Power to make rules.

14. (*1*) The Provincial Government may make rules for the purpose of carrying into effect all or any of the provisions of this Act.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner in which and the authority to which application for licence shall be made and the fee with which it shall be accompanied under section 5;

(*b*) the conditions subject to which a licence shall be granted under section 5 and the manner in which it shall be renewable;

(*c*) the further information to be furnished under section 6, the authority to which and the form in which such returns shall be furnished and the manner in which such returns shall be verified;

(*d*) the manner in which the amount payable under section 7 shall be assessed;

(*e*) the appellate authority to whom an application for cancellation or modification of assessment shall be made under section 8;

(*f*) the authority which can inspect notified factories;

(*g*) the manner in which and the conditions subject to which the accumulations in the Provincial Sugarcane Cess Fund shall be expended;

(*h*) the authority to whom notice is to be given under section 13; and

(*i*) any other matter which is to be or may be prescribed.

(*3*) In making any rule under sub-sections (*1*) and (*2*), the Provincial Government may provide that a breach of the rule shall, where no penalty is provided by this Act, be punishable with fine not exceeding one thousand rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication.

CHAPTER IV.

TRANSITIONAL PROVISIONS.

Levy of cess on sugarcane entering local area from 1st January 1948.

15. Notwithstanding anything hereinbefore contained, every occupier in a local area shall pay in such instalments as the Provincial Government may determine the amount of cess at the rate of three annas per maund in respect of sugarcane which has enterd into the local area for consumption or use therein during the period from the first day of January 1948 to the date on which the notification under section 5 is issued.

Returns to be furnished.

16. (*1*) Every occupier liable to pay cess under section 15 shall, within thirty days from the date of coming into force of this Act, furnish to the prescribed authority a return stating the total quantity in maunds of sugarcane consumed or used in his factory during the said period together with such information in regard thereto as may be prescribed.

(*2*) Every such return shall be made in such form and shall be verified in such manner as may be prescribed.

Application of Chapters I to III.

17. The provisions of Chapters I to III shall, so far as may be, apply to the assessment of cess leviable under section 15, the recovery of such cess, the inspection of notified factories and taking copies of records and accounts for the purpose of testing the accuracy of the return furnished under section 16 and the application of the proceeds of such cess.

BOMBAY ACT No. VI OF 1949.[1]

[THE AGRICULTURISTS' LOANS AND THE BOMBAY NON-AGRICULTURISTS' LOANS (AMENDMENT) ACT, 1949.]

[*11th April 1949.*]

An Act to amend the Agriculturists' Loans Act, 1884, in its application to the Province of Bombay and the Bombay Non-Agriculturists' Loans Act, 1928.

XII of 1884. Bom. III of 1928.

WHEREAS it is expedient to amend the Agriculturists' Loans Act, 1884, in its application to the Province of Bombay and the Bombay Non-Agriculturists' Loans Act, 1928, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Agriculturists' Loans and the Bombay Non Agriculturists' Loans (Amendment) Act, 1 49.

Amendment of section 4 of Act XII of 1884.

XII of 1884.

2. In section 4 of the Agriculturists' Loans Act, 1884, in sub-section (*1*) after the word " objects " the following words shall be added, namely :—

" or for erecting, rebuilding or repairing houses".

3-4. [*The amendments made by sections 3 and 4 of this Act have been incorporated in the Bombay Non-Agriculturists' Loans Act, 1928.*]

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette* 1949, Part V, page 75.

THE PRISONERS (BOMBAY AMENDMENT) ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of heading to part III of Act III of 1900.
3. Amendment of section 5 of Act III of 1900.
4. Amendment of section 7 of Act III of 1900.
5. Amendment of section 8 of Act III of 1900.
6. Amendment of section 9 of Act III of 1900.
7. Amendment of section 11 of Act III of 1900.
8. Amendment of section 13 of Act III of 1900.
9. Amendment of heading to Part IV of Act III of 1900.
10. Amendment of section 15 of Act III of 1900.

BOMBAY ACT No. VII OF 1949.[1]

[THE PRISONERS (BOMBAY AMENDMENT) ACT, 1949.]

[*11th April, 1949.*]

An Act to amend the Prisoners Act, 1900, in its application to the Province of Bombay.

III of 1900. WHEREAS it is expedient to amend the Prisoners Act, 1900, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

1. This Act may be called the Prisoners (Bombay Amendment) Act, 1949. Short title.

III of 1900. 2. In the heading to Part III of the Prisoners Act, 1900 (hereinafter called the said Act), for the words "the Presidency-towns" the words "Greater Bombay" shall be substituted. Amendment of heading to Part III of Act III of 1900.

3. In section 5 of the said Act,— Amendment of section 5 of Act III of 1900.

(*a*) after the words "criminal jurisdiction" the words "or by the Court of Session for Greater Bombay" shall be inserted;

(*b*) after the words "such jurisdiction" the words "or within the limits of Greater Bombay, as the case may be" shall be added.

4. In section 7 of the said Act,— Amendment of section 7 of Act III of 1900.

(*a*) for the words "criminal jurisdiction" the words "or appellate criminal jurisdiction or by the Court of Session for Greater Bombay" shall be substituted;

(*b*) for the words "the Court" the words "the High Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) for the words "returned by him to the High Court when executed" the words "when executed returned by him to the High Court or the Sessions Court, as the case may be" shall be substituted;

(*d*) in the merginal note to the said section, after the words "High Court" the words "or Sessions Court" shall be added.

5. In section 8 of the said Act,— Amendment of section 8 of Act III of 1900.

(*a*) for the words "criminal jurisdiction" the words "or appellate criminal jurisdiction or by the Court of Session for Greater Bombay" shall be substituted;

(*b*) for the words "the Court" the words "the High Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) in the marginal note to the said section, after the words "High Court" the words "or Sessions Court" shall be added.

6. In section 9 of the said Act,— Amendment of section 9 of Act III of 1900.

(*a*) after the words "High Court," the words "the Bombay City Civil Court or the Court of Session for Greater Bombay, shall be inserted;

(*b*) for the words "the Court" the words "the High Court, the City Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) in the marginal note to the said section, after the words "High Court" the words ", City Court or Sessions Court" shall be inserted.

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[1] For Statement of Objects and Reasons, see *Bombay Government Gazette*, 1949, Part V, page 71.

Amendment of section 11 of Act III of 1900.

7. In section 11 of the said Act,—

(*a*) after the words "criminal jurisdiction" the words "or by the Court Session for Greater Bombay" shall be inserted;

(*b*) for the words "the Court", at both the places where they occur the words "the High Court or the Sessions Court, as the case may be," shall be substituted;

(*c*) in the marginal note to the said section, after the words "High Court" the words "or Sessions Court" shall be added.

Amendment of section 13 of Act III of 1900.

8. In section 13 of the said Act,—

(*a*) in sub-section (*1*), for the words "a Presidency,-town" the words "Greater Bombay" shall be substituted;

(*b*) in the marginal note to the said section, for the word "Presidency-town" the words "Greater Bombay" shall be substituted.

Amendment of heading to Part IV of Act III of 1900.

9. In the heading to Part IV of the said Act, for the words "the Presidency-towns" the words "Greater Bombay" shall be substituted.

Amendment of section 15 of Act III of 1900.

10. In section 15 of the said Act in sub-section (*1*), for the words "the Presidency-towns" the words "Greater Bombay" shall be substituted.

THE BOMBAY ANATOMY ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Doubt or dispute as to near relative to be referred to Coroner or authorised officer.
4. Power of Provincial Government to authorize officers to act under section 5.
5. Unclaimed dead bodies to be used for anatomical examination.
6. Penalty.
7. Duty of Police and other officers to assist in obtaining possession of unclaimed bodies.
8. Protection of persons acting under the Act.
9. Officers to be public servants.
10. Rules.

BOMBAY ACT No. XI OF 1949.[1]

[THE BOMBAY ANATOMY ACT, 1949.]

[*22nd April 1949.*]

An Act to provide for the supply of unclaimed bodies of deceased persons to hospitals and medical and teaching institutions for the purpose of anatomical examination and dissection.

WHEREAS it is expedient to provide for the supply of unclaimed bodies of deceased persons to hospitals and medical and teaching institutions for the purpose of anatomical examination and dissection; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Anatomy Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) This section shall come into force at once.

(*4*) The Provincial Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force on such date and in such area as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "approved institution" means a hospital or a medical or teaching institution approved by the Provincial Government to carry on anatomical examination and dissection;

(*2*) "authorised officer" means an officer authorised to act under section 5;

(*3*) "near relative" means any of the following relatives of the deceased, namely, a wife, husband, parent, son, daughter, brother and sister and includes any other person who is related to the deceased (*a*) by lineal or collateral consanguinity within three degrees in lineal relationship and six degrees in collateral relationship, or (*b*) by marriage either with the deceased or with any relative specifically mentioned in this clause or with any other relative within the aforesaid degrees.

XXXIX of 1925.

Explanation.—The expressions "lineal and collateral consanguinity" shall have the meanings assigned to them in the Indian Succession Act, 1925;

(*4*) "prescribed" means prescribed by rules made under this Act;

(*5*) "unclaimed body" means the body of a deceased person who has no near relative or whose body has not been claimed by any of his near relatives within such period as may be prescribed.

Doubt or dispute as near relative to be referred to Coroner or authorised officer.

IV of 1871.

3. If any doubt or dispute arises whether a person is a near relative of the deceased, the matter shall be referred in the Greater Bombay, to the Coroner or an Additional Coroner appointed under the Coroners Act, 1871, and elsewhere, to such officer as may be appointed in this behalf by the Provincial Government, and his decision shall be final and conclusive.

[1] For Statements of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 658.

Power of Provincial Government to authorise officers to act under section 5.

4. The Provincial Government may, by notification in the *Official Gazette*, authorise for the area in which this Act comes into force or any part thereof, one or more officers to whom a report shall be made under section 5 and who shall be competent to act under the said section.

Unclaimed dead bodies to be used for anatomical examination.

5. (*1*) Where a person under treatment in a hospital whether established by or vesting in, or maintained by, the Provincial Government or any local authority, dies in such hosptial and his body is unclaimed, the authorities in charge of such hospital shall with the least practicable delay report the fact to the authorised officer and such officer shall then hand over the unclaimed body to the authorities in charge of an approved institution for the purpose of conducting anotomical examination and dissection.

(*2*) Where a person dies at a hospital other than a hospital referred to in sub-section (*1*) or in a prison and his body is unclaimed, the authorities in charge of such hospital or prison shall with the least practicable delay report the fact to the authorised officer, and the said officer shall hand over the unclaimed body to the authorities in charge of an approved institution for the purpose specified in sub-section (*1*).

(*3*) Where a person having no permanent place of residence in the area where his death has taken place dies in any public place in such area and his body is unclaimed, the authorised officer shall take possession of the body and shall hand it over to the authorities in charge of an approved institution for the purpose specified in sub-section (*1*).

Penalty.

6. Whoever disposes of, or abets the disposal of, an unclaimed body save as permitted by this Act, or obstructs any authority in charge of an approved institution or an authorised officer from handing over, taking possession of, removing or using, such dead body for the purpose specified in the Act, shall, on conviction, be punished with fine which may extend to five hundred rupees.

Duty of Police and other officers to assist in obtaining possession of unclaimed bodies.

7. All officers of the Departments of Police and Public Health and all officers in the employ of a local authority and all village officers shall be bound to take all reasonable measures to assist any authority or officer authorised under this Act to obtain the possession of an unclaimed body.

Protection of persons acting under the Act.

8. No suit, prosecution or other legal proceedings shall lie aginst any person for anything which is in good faith done or intended to be done under this Act.

Officers to be public servants.

9. All officers appointed or authorised to act under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Rules.

10. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) Without prejudice to the generality of the provisions of sub-section (*1*) such rules may prescribe the period within which a near relative shall claim the body of a deceased person.

THE BOMBAY NURSING HOMES REGISTRATION ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Prohibition to carry on nursing home without registration.
4. Application for registration.
5. Registration.
6. Penalty for non-registration.
7. Cancellation of registration.
8. Notice of refusal or of cancellation of registration.
9. Inspection of nursing homes.
10. Income of local supervising authority.
11. Expenses of local supervising authority.
12. Penalty for offences under Act.
13. Offences by corporations.
14. Court competent to try offences under Act.
15. Indemnity to persons acting under this Act.
16. Rules.
17. By-laws.
18. Saving.

BOMBAY ACT No. XV OF 1949.[1]

[THE BOMBAY NURSING HOMES REGISTRATION ACT, 1949.]

[*6th May 1949.*]

An Act to provide for the registration and inspection of nursing homes in the Province of Bombay and for certain purposes connected therewith.

WHEREAS it is expedient to provide for the registration and inspection of nursing homes in the Province of Bombay and for certain purposes connected therewith; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Nursing Homes Registration Act, 1949.

(*2*) This section extends to the whole of the Province of Bombay. The remaining provisions of this Act extend in the first instance to the Greater Bombay and the areas within the limits of the Municipal Boroughs of Ahmedabad, Poona City, Poona Suburban and Sholapur and the Provincial Government may, by notification in the *Official Gazette*, direct that the said provisions shall extend to such other areas as may be specified in the notification.

(*3*) This section shall come into force at once. The Provincial Government may, by notification in the *Official Gazette*, direct that the remaining provisions of this Act shall come into force in any area to which the said provisions extend or may have been extended under sub-section (*2*) on such date as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "by-laws" means by-laws made by the local supervising authority;

(*2*) "local supervising authority" in the case of a municipal area means the municipality established for such area, and in the case of any other area a district local board established for the said area;

(*3*) "maternity home" means any premises used, or intended to be used, for the reception of pregnant women or of women in or immediately after child birth;

(*4*) "nursing home" means any premises used or intended to be used, for the reception of persons suffering from any sickness, injury or infirmity and the providing of treatment and nursing for them, and includes a maternity home; and the expression "to carry on a nursing home" means to receive persons in a nursing home for any of the aforesaid purposes and to provide treatment or nursing for them;

(*5*) "prescribed" means prescribed by rules made under this Act;

Bom. VI of 1912.

(*6*) "qualified medical practitioner" means a medical practitioner registered under the Bombay Medical Act, 1912, or any other law for the time being in force;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 84.

(*7*) "qualified midwife" means a midwife registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935; Bom. VII of 1935.

(*8*) "qualified nurse" means a nurse registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935; Bom. VII of 1935.

(*9*) "register" means to register under section 5 of this Act and the expressions "registered" and "registration" shall be construed accordingly;

(*10*) "rules" means rules made under this Act.

Prohibition to carry on nursing home without registration.

3. No person shall carry on a nursing home unless he has been duly registered in respect of such nursing home and the registration in respect thereof has not been cancelled under section 7:

Provided that nothing in this section shall apply in the case of a nursing home which is in existence at the date of the commencement of this Act, for a period of three months from such date or if an application for registration is made within that period in accordance with the provisions of section 4 until such application is finally disposed of.

Application for registration.

4. (*1*) Every person intending to carry on a nursing home shall make every year an application for registration or the renewal of registration to the local supervising authority:

Provided that in the case of a nursing home which is in existence at the date of the commencement of this Act an application for registration shall be made within three months from such date.

(*2*) Every application for registration or the renewal of registration shall be made on such date and in such form and shall be accompanied by such fee, as may be prescribed.

Registration.

5. (*1*) Subject to the provisions of this Act and the rules, the local supervising authority shall, on the receipt of an application for registration, register the applicant in respect of the nursing home named in the application and issue to him a certificate of registration in the prescribed form:

Provided that the local supervising authority may refuse to register the applicant if it is satisfied—

(*a*) that he, or any person employed by him at the nursing home, is not a fit person, whether by reason of age or otherwise, to carry on or to be employed at a nursing home of such a description as the nursing home named in the application; or

(*b*) that the nursing home is not under the management of a person who is either a qualified medical practitioner or a qualified nurse and who is resident in the home, or that there is not a proper proportion of qualified nurses among the persons having the superintendence of or employed in the nursing of the patients in the home; or

(*c*) that in the case of a maternity home it has not got on its staff a qualified midwife; or

(*d*) that for reasons connected with the situation, construction, accommodation, staffing or equipment, the nursing home or any premises used in connection therewith are not fit to be used for a nursing home of such a description as the nursing home mentioned in the application or that the nursing home or premises are used or are to be used for purposes which are in any way improper or undesirable in the case of such nursing home.

(*2*) A certificate of registration issued under this section shall, subject to the provisions of section 7, be in force and shall be valid until the 31st day of March next following the date on which such certificate was issued.

(*3*) The certificate of registration issued in respect of a nursing home shall be kept affixed in a conspicuous place in the nursing home.

6. Whoever contravenes the provisions of section 3, shall, on conviction, be punished with fine which may extend to five hundred rupees or, in the case of a second or subsequent offence, with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both. Penalty for non-registration.

7. Subject to the provisions of this Act, the local supervising authority may at any time cancel the registration of a person in respect of any nursing home on any ground which would entitle it to refuse an application for the registration of that person in respect of that home, or on the ground that that person has been convicted of an offence under this Act or that any other person has been convicted of such an offence in respect of that home. Cancellation of registration.

8. (*1*) Before making an order refusing an application for registration or an order cancelling any registration, the local supervising authority shall give to the applicant or to the person registered, as the case may be, not less than one calendar month's notice of its intention to make such an order, and every such notice shall state the grounds on which the local supervising authority intends to make the order and shall contain an intimation that if within a calendar month after the receipt of the notice the applicant or person registered informs the authority in writing that he desires so to do, the local supervising authority shall, before making the order, give him (in person or by a representative) an opportunity of showing cause why the order should not be made. Notice of refusal or of cancellation of registration.

(*2*) If the local supervising authority, after giving the applicant or the person registered an opportunity of showing cause as aforesaid, decides to refuse the application for registration or to cancel the registration, as the case may be, it shall make an order to that effect and shall send a copy of the order by registered post to the applicant or the person registered.

(*3*) Any person aggrieved by an order refusing an application for registration or cancelling any registration may, within a calendar month after the date on which the copy of the order was sent to him, appeal to the Provincial Government against such order of refusal. The decision of the Provincial Government on any such appeal shall be final.

(*4*) No such order shall come into force until after the expiration of a calendar month from the date on which it was made or, where notice of appeal is given against it, until the appeal has been decided or withdrawn.

9. (*1*) The Health Officer of the local supervising authority or the Civil Surgeon of the district in which a nursing home is situated or any other officer duly authorised by the local supervising authority or the Civil Surgeon, may, subject to such general or special orders as may be made by the local supervising authority, at all reasonable times enter and inspect any premises which are used, or which that officer has reasonable cause to believe to be used, for the purpose of nursing home, and inspect any records required to be kept in accordance with the provisions of this Act : Inspection of nursing homes.

Provided that nothing in this Act shall be deemed to authorise any such officer to inspect any medical record relating to any patient in a nursing home.

(*2*) If any person refuses to allow any such officer to enter or inspect any such premises as aforesaid, or to inspect any such records as aforesaid or obstructs any such officer in the execution of his powers under this section, he shall be guilty of an offence under this Act.

Income of local supervising authority.

10. Any fees received under this Act shall be paid into the fund of the local supervising authority.

Expenses of local supervising authority.

11. Notwithstanding anything contained in any enactment in regard to any municipal or local fund, all expenses incurred by a local supervising authority under and for the purposes of this Act and the rules and by-laws may be paid out of the municipal or local fund, as the case may be.

Penalty for offences under Act.

12. Whoever contravenes any of the provisions of this Act or of any rule shall, if no other penalty is elsewhere provided in this Act or the rules for such contravention, on conviction, be punished with fine which may extend to fifty rupees and in the case of a continuing offence to a further fine of fifteen rupees in respect of each day on which the offence continues after such conviction.

Offences by corporations.

13. Where a person committing an offence under this Act is a company or other body corporate or an association of persons (whether incorporated or not), every person who at the time of the commission of the offence was a director, manager, secretary, agent or other officer or person concerned with the management thereof shall, unless he proves that the offence was committed without his knowledge or consent, be deemed to be guilty of such offence.

Court competent to try offences under Act.

14. No court other than that of a Presidency Magistrate or a Magistrate of the first class shall take cognizance of or try any offence under this Act.

Indemnity to persons acting under this Act.

15. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or by-laws.

Rules.

16. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make rules to carry out all or any of the purposes of this Act.

(*2*) Without prejudice to the generality of the foregoing provisions such rules may prescribe—

(*a*) the form of the application to be made under section 4,

(*b*) the date on which an application for registration or renewal of registration to be made and the fees to be paid for such registration or renewal of registration,

(*c*) the form of the certificate of registration to be issued under section 5,

(*d*) for any other matter for which no provision has been made in this Act, and for which provision is, in the opinion of the Provincial Government, necessary.

(*3*) The power to make rules under this section shall be subject to the condition of previous publication in the *Official Gazette*.

By-laws.

17. (*1*) The local supervising authority may make by-laws not inconsistent with this Act or rules—

(*a*) prescribing the records to be kept of the patients received into a nursing home, and in the case of the maternity home, of miscarriages, abortions or still births occurring in the nursing home and of the children born therein and of the children so born who are removed from the home otherwise than to the custody or care of any parent, guardian or relative;

(*b*) requiring notification to be given of any death occurring in the nursing home.

(*2*) Any by-law made by a local supervising authority under this Act may provide that a contravention thereof shall be punishable—

(*a*) with fine which may extend to fifty rupees ; or

(*b*) with fine which may extend to fifty rupees and in the case of a continuing contravention, with an additional fine which may extend to fifteen rupees for every day during which such contravention continues after conviction for the first such contravention ; or

(*c*) with fine which may extend to fifteen rupees for every day during which the contravention continues after the receipt of a notice from the local supervising authority by the person contravening the by-law requiring such person to discontinue such contravention.

(*3*) No by-law made by the local supervising authority shall come into force until it has been confirmed by the Provincial Government with or without modification.

(*4*) All by-laws made under this section shall be published in the *Official Gazette.*

18. Nothing in this Act shall apply to— Saving.

(*i*) any nursing home carried on by Government or a local authority or by any other body of persons approved by the Provincial Government in this behalf ; and

(*ii*) any asylum for lunatics or patients suffering from mental diseases, within the meaning of the Indian Lunacy Act, 1912. IV of 1912.

THE POLICE FORCES (CONTROL AND DIRECTION) ACT, 1949.

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5. Liability of Police Officers to transfers throughout the Province.
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BOMBAY ACT No. XVI OF 1949.[1]

[THE POLICE FORCES (CONTORL AND DIRECTION) ACT, 1949.]

[*7th May 1949.*]

An Act to facilitate the amalgamatoin of the Police forces constituted under the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, to provide for the control and direction by the Inspector-General of Police of the Police force for the Greater Bombay as well as the Police force outside the Greater Bombay, and to facilitate the transfer of members of the Police force appointed under the City of Bombay Police Act, 1902, to any place outside the Greater Bombay and of the members of the Police force appointed under the Bombay District Police Act, 1890, to the Greater Bombay.

WHEREAS it is expedient to facilitate the amalgamation of the Police forces constituted under the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902;

Bom. IV of 1890. Bom. IV of 1902.

AND WHEREAS it is expedient to invest the Inspector-General of Police with the control and direction of the Police force appointed under the City of Bombay Police Act, 1902 along with the control and direction of the Police force appointed under the Bombay District Police Act, 1890;

Bom. IV of 1902. Bom. IV of 1890.

AND WHEREAS it is expedient to provide for the transfers of members of the Police forces appointed under the said Bombay District Police Act, 1890, to the Greater Bombay and of those appointed under the said City of Bombay Police Act, 1902, outside the Greater Bombay;

Bom. IV of 1890. Bom. IV of 1902.

It is hereby enacted as follows—

Short title, extent and commencement.

1. (*1*) This Act may be called the Police Forces (Control and Direction) Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "City Act" means the City of Bombay Police Act, 1902;

Bom. IV of 1902.

(*b*) "District Act" means the Bombay District Police Act, 1890;

Bom. IV of 1890.

(*c*) "Inspector-General of Police" means the Inspector-General of Police appointed under section 5 of the District Act.

Superintendence of Police forces to vest in Provincial Government.

3. The superintendence of the Police throughout the Province vests in and is hereby declared to vest in, and to be exercisable by the Provincial Government and any control, direction or supervision exercisable by any officer over any member of any

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 155.

Police force under the provisions of the City Act or District Act shall, notwithstanding anything contained in either of the said Acts, be exercisable subject to such superintendence.

Control of Inspector-General of Police over Commissioner of Police.

4. Notwithstanding anything contained in the City Act, the Provincial Government may, by general or special order, direct that any of the powers, functions or duties exercisable or to be performed by the Commissioner of Police under the said Act shall be exercised or performed, subject to the control of the Inspector General of Police.

Liability of Police Officers to transfers throughout the Province.

5. (*1*) Notwithstanding anything contained in the District Act or the City Act, it shall be competent to the Provincial Government to transfer members of the Police force appointed under the District Act to the Greater Bombay or to transfer members of the Police force appointed under the City Act to any place in the Province outside the Greater Bombay.

(*2*) On such transfer the Police Officer shall be deemed to be the member of the Police force constituted for the area to which he has been transferred, and in the performance of his functions he shall, subject to the rules or orders made under this Act, be vested with the powers and privileages, and be subject to the liabilities of a Police officer of such grade in the Police force to which he has been transferred, as may be specified in such rules or orders.

(*3*) The Provincial Government may direct that the powers of transfer under sub-section (*1*) shall also be exercisable by the Inspector-General of Police in respect of such class of Police officers and subject to such conditions as may be specified in the direction.

Rules.

6. (*1*) The Provincial Government may make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for all or any of the following matters, namely :—

(*a*) the powers, functions, privileges and liabilities of, and the certificates to be issued to, Police officers transferred under section 5 ;

(*b*) the conditions of service of such officers ;

(*c*) the discipline to be observed by such officers and the authorities competent to punish for neglect or violation of duty or for any neglect of any rules or orders made under this Act or for gross misconduct while on leave.

THE KARNATAK UNIVERSITY ACT, 1949.

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BOMBAY ACT No. XX OF 1949.[1]

[THE KARNATAK UNIVERSITY ACT, 1949.]

[*11th May 1949.*]

An Act to establish and incorporate a University in the Province of Bombay to be known as the Karnatak University.

WHEREAS it is expedient to establish and incorporate a University in the Province of Bombay to be known as the Karnatak University as a measure in the decentralization and reorganisation of university education in the Province of Bombay; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title and commencement.

1. (*1*) This Act may be called the Karnatak University Act, 1949.

(*2*) This section shall come into force at once.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, direct that all or any of the remaining provisions of this Act shall come into force on such date or dates as may be specified in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Affiliated" means affiliated under sections 5 and 32;

(*2*) "College" means a degree college or an intermediate college;

(*3*) "Degree College" means an affiliated college which is authorized to submit its students to an examination qualifying for any degree of the University;

(*4*) "High School" means a high school which has been recognized as a full-fledged high school by the Director of Public Instruction, Bombay Province, or by an officer authorized by him in this behalf, or a high school situate outside the Province of Bombay which has been registered by the University;

(*5*) "Hostel" means a unit of residence for students maintained or recognized by the University under this Act;

(*6*) "Intermediate college" means an affiliated college other than a degree college;

(*7*) "Principal" means the head of a college;

(*8*) "Recognized institution" means an institution for research or specialized studies other than an affiliated college and recognized as such by the University.

(*9*) "Registered graduate" means a graduate registered under the provisions of this Act;

(*10*) "Secondary Teachers" means such class of teachers imparting instruction in High Schools as may be declared to be Secondary teachers by the Statutes;

(*11*) "Statutes", "Ordinances" and "Regulations" mean respectively the Statutes, Ordinances and Regulations of the University made under this Act and for the time being in force;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 33.

(*12*) " Teachers " means professors, readers, lecturers and such other persons imparting instruction in the University, an affiliated college or a recognized institution as may be declared to be teachers by the Statutes;

(*13*) " Teachers of the University " means teachers appointed or recognized by the University for imparting instruction on its behalf;

(*14*) " University " means the Karnatak University constituted under this Act;

(*15*) " University Area " means the areas specified in the Schedule;

(*16*) " University Department " means any post-graduate or research institution or department maintained by the University.

CHAPTER II.

THE UNIVERSITY.

Incorporation of the University.

3. (*1*) The Chancellor, the first Vice-Chancellor of the University and the first members of the Senate, the Syndicate and the Academic Council of the University and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of " The Karnatak University ".

(*2*) The University shall have perpetual succession and a common seal and shall sue and be sued by the said name.

(*3*) The University shall be competent to acquire and hold property, both moveable and immovable, to lease, sell or otherwise transfer any moveable or immovable property which may have become vested in or been acquired by it for the purposes of the University and to contract and to do all other things necessary for the purposes of this Act.

Powers of the University.

4. Subject to such conditions as may be prescribed by or under the provisions of this Act, the University shall have the following powers, namely :—

(*1*) to provide for instruction, teaching and training in such branches of learning and courses of study as it may think fit and to make provision for research and dissemination of knowledge;

(*2*) to make such provision as will enable affiliated colleges and recognized institutions to undertake specialization of studies;

(*3*) to establish, maintain and manage departments and institutes of research or specialized studies;

(*4*) to institute professorships, readerships, lecturerships and any other posts of teachers required by the University;

(*5*) to appoint or recognize persons as professors, readers or lecturers or otherwise as teachers of the University;

(*6*) to lay down the courses of instruction for various examinations;

(*7*) to guide the teaching in colleges or recognized institutions;

(*8*) to institute degrees, titles, diplomas and other academic distinctions;

(*9*) to hold examinations and confer degrees, titles, diplomas and other academic distinctions on persons who—

(*a*) have pursued approved courses of study in the University or in an affiliated college unless exempted therefrom in the manner prescribed by the Statutes, Ordinances and Regulations and have passed the examinations prescribed by the University, or

(*b*) have carried on research under conditions prescribed by the Ordinances and Regulations;

(*10*) to confer honorary degrees, titles or other academic distinctions in the manner laid down by the Statutes;

(*11*) to grant such diplomas to, and to provide such lectures, instruction and training, for persons not being enrolled students of the University as the University may determine by the Statutes, Ordinances and Regulations;

(*12*) to admit educational institutions to the privileges of the University and to withdraw such privileges;

(*13*) to inspect colleges and recognized institutions and to take measures to ensure that proper standards of instruction, teaching or training are maintained in them;

(*14*) to control and co-ordinate the activities of, and give financial aid to, affiliated colleges and recognized institutions;

(*15*) to hold and manage endowments and to institute and award fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes;

(*16*) to make special provision for the spread of university education among classes and communities which are educationally backward;

(*17*) to make special provision for disseminating knowledge and promoting arts and culture in rural areas;

(*18*) to fix, to demand and to receive such fees and other charges as may be prescribed by the Ordinances;

(*19*) to establish, maintain and manage hostels;

(*20*) to recognize hostels not maintained by the University, to inspect such hostels and to withdraw recognition therefrom;

(*21*) to supervise and control the residence, conduct and discipline of the students of the University and to make arrangements for promoting their health and general welfare;

(*22*) to co-ordinate, supervise and control the conduct of post-graduate research work and teaching in the affiliated colleges and the institutions recognized by the University;

(*23*) to institute and manage—

(*a*) Publication Department,
(*b*) University Extension Boards,
(*c*) Information Bureaux, and
(*d*) Employment Bureaux;

(*24*) to make grants from the funds of the University—

(*a*) for extra-mural teaching,
(*b*) for physical and military training,

(*c*) for students' Unions, and
(*d*) for sports and Athletic clubs ;

(*25*) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine ; and

(*26*) to do all such acts and things whether incidental to the powers aforesaid or not as may be requisite in order to further the objects of the University and generally to cultivate and promote arts, science and other branches of learning and culture.

Jurisdiction and admission to privileges.

5. (*1*) No educational institution situate within the University area shall, save with the sanction of the Provincial Government, be associated in any way with, or seek admission to any privileges of any other University established by law.

(*2*) Any such privileges enjoyed from such other University before the date on which this section comes into force by any educational institution situate within the University area shall be deemed to be withdrawn with effect from such date.

(*3*) With effect from such date all educational institutions admitted to the privileges of the University of Bombay and situate within the University area shall be deemed to be admitted to the privileges of the University, and the University shall, as far as may be possible and consistent with this Act, admit such institutions to all such privileges as they had from the University of Bombay immediately before such date.

(*4*) Any educational institution in the Province of Bombay situate outside the University area may, with the sanction of the Provincial Government, and any educational institution in an Indian State or other territories, apply to the University for being admitted to the privileges of the University and such institution may, subject to such conditions and restrictions as the University and the Provincial Government thinks fit to impose, be admitted to the privileges of the University.

University open to all irrespective of sex, religion, class, creed or opinion.

6. (*1*) No person shall be excluded from any office of the University or from membership of any of its authorities or from admission to any degree, diploma, title or other academic distinction or course of study on the sole ground of sex, race, creed, class, religious belief or political or other opinion :

Provided that the University may, subject to the previous sanction of the Provincial Government, maintain, affiliate or recognize any institution exclusively for women or reserve for women or members of classes and communities which are educationally backward places for the purposes of admission as students in any institution maintained by the University.

(*2*) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, class, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma, title or other academic distinction or to enjoy or exercise any privileges of the University or any benefaction thereof.

Inspection and inquiry.

7. (*1*) The Chancellor shall have the right to cause an inspection to be made by such person or persons as he may direct of the University, its buildings, laboratories, libraries, museums, workshops and equipment, of any institution, college or hostel maintained, recognized by, or affiliated to, the University, of the teaching and other work conducted by the University and of the conduct of examinations held by the University ; and to cause an inquiry to be made in respect of any matter

connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made and the University shall be entitled to be represented thereat.

(*2*) The Chancellor shall communicate to the Senate and to the Syndicate his views with reference to the results of such inspection or inquiry and shall, after ascertaining the opinion of the Senate and the Syndicate thereon, advise the University on the action to be taken.

(*3*) The Syndicate shall report to the Chancellor such action, if any, as it has taken or may propose to take upon the results of the inspection or inquiry. Such report shall be submitted with the opinion of the Senate thereon and within such time as the Chancellor may direct.

(*4*) Where the Syndicate does not within a reasonable time take action to the satisfaction of the Chancellor, the Chancellor may, after considering any explanation furnished or representation made by the Syndicate, issue such directions as he may think fit and the Syndicate shall comply with such directions.

(*5*) The Provincial Government may, whenever it deems fit, cause a like inspection or inquiry to be made in the manner described in sub-sections (*1*) to (*3*) and shall have, for the purposes of such inspection or inquiry, all the powers of the Chancellor under the said sub-sections.

CHAPTER III.

Officers of the University.

Officers of the University.

8. The following shall be the officers of the University, namely :—

(*i*) The Chancellor,

(*ii*) The Vice-Chancellor,

(*iii*) The Deans of Faculties,

(*iv*) The Registrar, and

(*v*) Such other officers in the service of the University as may be declared by the Statutes to be officers of the University.

The Chancellor.

9. (*1*) The Governor of Bombay for the time being shall be the Chancellor of the University.

(*2*) The Chancellor shall, by virtue of his office, be the head of the University and the president of the Senate and shall, when present preside at meetings of the Senate and at any convocation of the University.

(*3*) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

The Vice-Chancellor.

10. (*1*) Subject to the confirmation of the Chancellor, the Vice-Chancellor shall be elected by the Senate from among three persons recommended by a majority of the members of the Syndicate present at the meeting. Such recommendation and election shall be made according to the system of proportional representation by means of a single transferable vote.

(*2*) The Vice-Chancellor shall hold office for a term of three years.

(*3*) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Syndicate shall, as soon as possible, subject to the approval of the Chancellor, make such arrangements for carrying on the

duties of the office of the Vice-Chancellor as it may think fit. Until such arrangements are made, the Dean nominated by the Chancellor for that purpose shall carry on the current duties of the office of the Vice-Chancellor.

(*4*) The Vice-Chancellor shall be an honorary officer but the Senate may, by Statutes, make the office of the Vice-Chancellor a wholetime salaried office and determine the emoluments to be paid for such office and prescribe the conditions subject to which such office shall be held.

Powers of the Vice-Chancellor.

11. (*1*) The Vice-Chancellor shall be the principal executive and academic officer of the University and shall in the absence of the Chancellor preside at meetings of the Senate and any convocation of the University. He shall be an *ex-officio* member and the Chairman of the Syndicate, of the Academic Council and of the committees constituted under sections 44, 45 and 46. He shall be entitled to be present, with the right to speak, at any meeting of any other authority or body of the University, but shall not be entitled to vote thereat unless he is a member of that authority or body.

(*2*) The Vice-Chancellor shall have power to convene meeting of the Senate, the Syndicate and the Academic Council. He may delegate this power to any other officer of the University.

(*3*) It shall be the duty of the Vice-Chancellor to ensure that this Act, the Statutes, Ordinances and Regulations are faithfully observed and he shall have all powers necessary for this purpose.

(*4*) (*a*) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, he shall take such action as he deems necessary and shall at the earliest opportunity thereafter report his action to such officer, authority or body as would have in the ordinary course dealt with the matter.

(*b*) When action taken by the Vice-Chancellor under this sub-section affects any person in the service of the University such person shall be entitled to prefer an appeal through the said officer, authority or body to the Syndicate within fifteen days from the date on which such action is communicated to him.

(*5*) The Vice-Chancellor shall give effect to the orders of the Syndicate regarding the appointment, dismissal and suspension of the persons in the service of the University or teachers of the University or regarding the recognition or withdrawal of the recognition of any such teacher and shall exercise general control over the affairs of the University. He shall be responsible for the discipline of the University in accordance with this Act, the Statutes and Ordinances.

(*6*) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes, Ordinances and Regulations.

The Registrar.

12. The Registrar shall be a wholetime salaried officer and shall act as the Secretary of the Senate, of the Syndicate and of the Academic Council. He shall be appointed by the Syndicate in accordance with the Statutes to be framed in this behalf; and his emoluments and conditions of service shall be determined by such Statutes. He shall exercise such powers and perform such duties as may be prescribed by the Statutes, Ordinances and Regulations.

Other officers.

13. The powers and duties of the officers of the University referred to in clause (*v*) of section 8 shall be such as may be prescribed by the Statutes, Ordinances and Regulations.

CHAPTER IV.

AUTHORITIES OF THE UNIVERSITY.

14. The following shall be the authorities of the University, namely :— Authorities of the University.

(*i*) The Senate,
(*ii*) The Syndicate,
(*iii*) The Academic Council,
(*iv*) The Faculties,
(*v*) The Board of University Teaching,
(*vi*) The Boards of Studies, and
(*vii*) Such other bodies of the University as may be declared by the Statutes to be the authorities of the University.

15. (*1*) The Senate shall consist of the following members, namely :— The Senate.

Class I—Ex-officio members.

(A) (*i*) The Chancellor,
(*ii*) The Vice-Chancellor,
(*iii*) Ex-Vice-Chancellors of the University residing in the Province,
(*iv*) The Deans of Faculties,
(*v*) The Registrar.

(B) (*i*) The Chief Justice of Bombay, or any other Judge of the High Court nominated by him,
(*ii*) The Minister of Education, Bombay, or an officer of Government nominated in this behalf by the Minister,
(*iii*) The Director of Public Instruction, Bombay Province, or a Deputy Director of Public Instruction designated by the Provincial Government,
(*iv*) The Joint Director of Technical Education,
(*v*) The Surgeon General with the Government of Bombay,
(*vi*) A Director of Agriculture designated by the Provincial Government,
(*vii*) The Director of Industries, Bombay,
(*viii*) A Chief Engineer with the Government of Bombay designated by the Provincial Government,
(*ix*) Vice-Chancellors of other Universities established by law in the Province of Bombay,
(*x*) The Chief Conservator of Forests.

(C) (*i*) Heads of University Departments,
(*ii*) Principals of affiliated colleges.

Class II—Ordinary members.

(A) Elected as specified below :—
(*i*) three members by secondary teachers of high schools excluding the head masters thereof from amongst such teachers;
(*ii*) two members by head masters of high schools from amongst such head masters;
(*iii*) ten members by teachers, excluding Principals, Heads of University Departments and Deans of Faculties, from amongst themselves;
(*iv*) by public associations or bodies as under :—
(*a*) one member by each School Board of a Borough Municipality within the University Area,

(*b*) one member by each District School Board within the University Area,

(*c*) four members by the Bombay Legislative Assembly from amongst its members, of whom one shall be the representative of the University of Bombay, on the Bombay Legislative Assembly if he is not already a member of the Senate,

(*d*) one member by the Bombay Legislative Council from amongst its members,

(*e*) one member each by such representative association in the University area of (1) journalists, (2) industrialists and manufacturers, (3) farmers and agriculturists and (4) labourers, as may be designated by the Statutes,

(*f*) one member by co-operative banks and one member by other co-operative societies in the University Area,

(*g*) two members, by such literary associations in the University area representative of writers and authors, as may be designated by the Statutes,

(*h*) two members, by such chamber of commerce, as may be designated by the Statutes, from amongst its members,

(*i*) eighteen members, who shall not be persons who are teachers or secondary teachers of High Schools or Headmasters of High Schools, by registered graduates in the manner specified below :—

(*1*) five by registered law graduates from amongst themselves ;

(*2*) four by registered medical graduates from amongst themselves ;

(*3*) one by registered graduates in Engineering from amongst themselves ;

(*4*) eight by registered graduates other than those specified in (*1*), (*2*) and (*3*) above, from amongst themselves :

Provided that—

(*i*) every person elected under clauses (*i*) to (*iii*) and under sub-clauses (*c*) to (*h*) of clause (*iv*) shall continue to hold the office of a member of the Senate only so long as he is a secondary teacher or headmaster of a high school or a teacher or a member of the electing body or bodies, as the case may be ;

(*ii*) for the purpose of the election of ordinary members a person entitled to stand as a candidate or to vote in more than one constituency mentioned in sub-clause (*i*) shall before such date as may be appointed by the Statute, elect the constituency from which he desires to stand as a candidate or to vote at the election and shall not be entitled to stand or vote in more than one constituency.

(B) Ten members nominated on the recommendation of the Vice-Chancellor by the Chancellor, including distinguished educationists, women and representatives of the linguistic minorities and backward communities and other special interests.

(C) Donors to, or for the purposes of, the University, of money or property of the value of not less than fifty thousand rupees.

Such donors shall, if willing to serve, be members for life subject to the provisions of section 57.

(D) One nominee of each of the bodies giving a donation to, or for the purposes of, the University, of money or property of the value of not less than fifty thousand rupees :

Provided that the right of making such nomination and, subject also to the provisions of section 57 the tenure of such nominee shall not extend beyond the period of twenty years from the date of the acceptance by the Syndicate of any such donation.

Explanation.—For the purposes of paragraphs (C) and (D) the value of the property means the market value of the property at the date of acceptance of the donation by the Syndicate.

(E) Such number of members not exceeding three as may be fixed by the Statutes, to be elected from among themselves by donors of the University each donating not less than rupees ten thousand; but not more than rupees twenty-five thousand.

(F) Such number of members not exceeding three as may be fixed by the Statutes, to be elected from amongst themselves by donors of the University each donating more than twenty-five thousand but not more than fifty thousand rupees; Provided that the right of electing a member under paragraphs (E) and (F) shall not extend beyond the period of five and ten years respectively from the date of the acceptance by the Syndicate of any such donation.

(*2*) The term of office of the elected members and of the members in paragraph (B) in Class II shall be five years.

Meetings of the Senate.

16. (*1*) The Senate shall, on a date to be fixed by the Chancellor, meet once a year at a meeting to be called the annual meeting of the Senate.

(*2*) The Vice-Chancellor, may, whenever he thinks fit, and shall, upon a requisition in writing signed by not less than twenty-five members of the Senate, convene a special meeting of the Senate.

Powers and duties of the Senate.

17. (*1*) Subject to such conditions as may be prescribed by or under the provisions of this Act, the Senate shall exercise the following powers and perform the following duties, namely :—

(*i*) to make provision for instruction, teaching and training in such branches of learning and courses of study as it may think fit, for research and for the advancement and dissemination of knowledge;

(*ii*) to make such provision as will enable affiliated colleges and recognized institutions to undertake specialization of studies;

(*iii*) to establish and maintain departments and institutes of research and specialized studies;

(*iv*) to institute professorships, readerships, lecturerships and any other post of teachers required by the University;

(*v*) to institute fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes;

(*vi*) to institute and confer degrees, titles, diplomas and other academic distinctions;

(*vii*) to confer, on the recommendation of the Syndicate honorary degrees, titles or other academic distinctions;

(*viii*) to make, amend or repeal the Statutes;

(*ix*) to consider, cancel, refer back but not amend Ordinances;

(*x*) to consider and pass resolutions on the annual reports, annual accounts and financial estimates;

(*xi*) to consider the annual financial estimates prepared by the Syndicate and pass resolutions with reference thereto;

(*xii*) to elect office-bearers and authorities as provided in the Act and the Statutes;

(*xiii*) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes, Ordinances and Regulations.

(*2*) The powers and duties under clauses (*i*) to (*vii*) of sub-section (*1*) shall not be exercised except upon the recommendations made by the Syndicate and the Academic Council.

Syndicate.

18. (*1*) The Syndicate shall be the executive authority of the University and shall consist of the following, namely :—

(*i*) The Vice-chancellor—*ex-officio* Chairman,

(*ii*) The Director of Public Instruction, Bombay Province, or the Deputy Director of Public Instruction who is a member of the Senate,

(*iii*) eight persons elected by the Senate from amongst its members, and

(*iv*) five persons elected by the Academic Council from amongst its members to represent the different Faculties in the manner prescribed by the Statutes :

Provided that a member elected under clause (*iii*) or (*iv*) shall cease to hold office as such member if he ceases to be a member of the Senate or Academic Council, as the case may be.

(*2*) The term of office of the elected members of the Syndicate shall be five years.

Powers and duties of the Syndicate.

19. (*1*) Subject to such conditions as may be prescribed by or under the provisions of this Act, the Syndicate shall exercise the following powers and perform the following duties, namely :—

(*i*) to hold, control and administer the property and funds of the University ;

(*ii*) to enter into, vary, carry out and cancel contracts on behalf of the University in the exercise or prformance of the powers and duties assigned to it by the Act and the Statutes in accordance with the direction of the Finance and Legal Committees ;

(*iii*) to determine the form, provide for the custody and regulate the use, of the common seal of the University ;

(*iv*) to administer funds placed at the disposal of the University for specific purposes ;

(*v*) to frame the annual financial estimates of the University and to submit them to the Senate ;

(*vi*) to make provision for buildings, premisses, furnitute, apparatus and other means needed for carrying on the work of the University ;

(*vii*) to accept on behalf of the University bequests, donations and transfers of any moveable or immovable property to the University ;

(*viii*) to transfer any moveable or immovable property on behalf of the University ;

(*ix*) to manage and regulate the finances, accounts and investments of the University ;

(*x*) to institute and manage—

(*a*) Publication Department,

(*b*) University Extension Boards,

(*c*) Information Bureaux, and

(*d*) Employment Bureaux ;

(*xi*) to make grants from the funds of the University—

(*a*) for extra-mural teaching,

(*b*) for physical and military training ;

(*xii*) to manage departments, institutes of research or specialized studies, laboratories, libraries, museums and hostels maintained by the University;

(*xiii*) to recognize hostels and to provide housing accommodation for University teachers;

(*xiv*) to register high schools situate outside the Province of Bombay, as may be provided by the Statutes;

(*xv*) to arrange for and direct the inspection of affiliated colleges, recognized institutions and hostels, to issue instructions for maintaining their efficiency and for ensuring proper conditions of employment for members of their staff, and in case of disregard of such instructions, to recommend modification of the conditions of their affiliation or recognition or take such other steps as it deems proper;

(*xvi*) to call for reports, returns and other information from colleges, recognized institutions or hostels;

(*xvii*) to supervise and control the residence, conduct and discipline of the students of the University and to make arrangements for promoting their health and general welfare;

(*xviii*) to recommend to the Senate the conferment of honorary degrees, titles and academic distinctions in the manner prescribed by the Statutes;

(*xix*) to award fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes;

(*xx*) to appoint teachers and servants of the University, fix their emoluments, if any, and define their duties and the conditions of their service and discipline;

(*xxi*) to recognize a member of the staff of an affiliated college or recognized institution as a professor, reader, lecturer or teacher of the University and withdraw such recognition;

(*xxii*) to appoint examiners, to fix their remuneration and to arrange for the conduct of, and for publishing the results of, the University examinations and other tests;

(*xxiii*) to fix, demand and receive such fees and other charges as may be prescribed by the Ordinances;

(*xxiv*) to make, amend and cancel the Ordinances;

(*xxv*) to accept, reject or refer back Regulations framed by the Academic Council;

(*xxvi*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act, Statutes, Ordinances and Regulations;

(*xxvii*) to exercise all powers of the University not otherwise provided for in the Act or the Statutes and all other powers which are requisite to give effect to the provisions of this Act or the Statutes.

(*2*) The Syndicate shall make a report to the Senate about all acceptances or transfers of property referred to in clause (*vii*) of sub-section (*1*).

(*3*) The Syndicate shall not transfer any immovable property without the previous sanction of the Senate.

(*4*) The Syndicate may by Ordinances appoint Committees to carry out its administrative work and define their constitution, functions and tenure.

20. (*1*) The Academic Council shall be the academic body of the University and shall consist of the following persons, namely :— Academic Council.

Class I—Ex-officio.

(*i*) The Vice-Chancellor—*ex-officio* Chairman,

(*ii*) Deans of Faculties,

(*iii*) Heads of University Departments,

(*iv*) Principals of degree colleges,

(*v*) Chairmen of the Boards of Studies,

(*vi*) Heads of recognized institutions.

Class II—Other members.

Four persons elected by the Senate from amongst themselves provided that a person elected by the Senate shall cease to hold office as such member if he ceases to be a member of the Senate.

(*2*) The term of office of the members of the Academic Council other than *ex-officio* members shall be three years.

Powers and duties of the Academic Council.

21. (*1*) The Academic Council shall have the control and general regulation of, and be responsible for, the maintenance of the standards of teaching and examinations within the University.

(*2*) Without prejudice to the generality of the foregoing provision and subject to such conditions as may be prescribed by or under the provisions of this Act, the Academic Council shall exercise the following powers and perform the following duties, namely :—

(*i*) to make Regulations in consultation with the Boards of Studies concerned laying down courses of study ;

(*ii*) to make Regulations regarding the special courses of study ;

(*iii*) to arrange for co-ordination of studies and teaching in affiliated colleges and in recognized institutions ;

(*iv*) to promote research within the University ;

(*v*) to make proposals for allocating subjects to the Faculties and to assign its own members to the Faculties ;

(*vi*) to make proposals for the establishment of departments, institutes of research and specialized studies, libraries, laboratories and museums ;

(*vii*) to make proposals for the institution of professorships, readerships, lecturerships and any other posts of teachers required by the University and for prescribing the duties and fixing the emoluments of such posts ;

(*viii*) to make proposals for the institution of fellowships, travelling fellowships, scholarships, studentships, exhibitions, medals and prizes and to make Regulations for their award ;

(*ix*) to make Regulations regarding the examinations of the University and the conditions on which students shall be admitted to such examinations ;

(*x*) to make Regulations prescribing equivalence of examinations ;

(*xi*) to make Regulations prescribing the manner for granting exemptions from approved courses of studies in the University or in affiliated colleges for qualifying for degrees, titles, diplomas and other academic distinctions ;

(*xii*) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act, Statutes, Ordinances and Regulations ; and

(*xiii*) generally to advise the University on all academic matters.

Faculties and their functions.

22. (*1*) The University shall include the Faculties of Arts, Science, Law, Engineering and Agriculture and such other Faculties as may be prescribed by the Statutes. Each Faculty shall comprise such subjects as may be prescribed by the Statutes.

(*2*) Each Faculty shall consist of—

(*i*) members of the Academic Council who are assigned to the Faculty by the Academic Council, and

(*ii*) members of the Boards of Studies for the subjects comprised in the Faculty.

Explanation.—For the purposes of the assignment of members under this sub-section, the Academic Council shall not include Deans of Faculties.

(*3*) The powers and duties of the Faculties and the conditions governing the terms of offices of their members shall be as prescribed by the Statutes.

23. (*1*) There shall be a Dean of each Faculty who shall be elected by the Faculty from amongst its members. The term of office of a Dean shall be such as may be determined by the Statutes. Deans of Faculties.

(*2*) The Dean of each Faculty shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to that Faculty.

24. (*1*) There shall be a Board of Studies for every subject or group of subjects as may be prescribed by the Statutes. Boards of Studies.

(*2*) Each Board shall consist of—

(*i*) Heads of University Departments in the subject or group of subjects for which the Board is constituted,

(*ii*) such numbers of teachers elected by teachers in the subject or subjects for which the Board is constituted from amongst themselves in such manner as may be prescribed by the Statutes,

(*iii*) persons to be co-opted by the Board, not exceeding such number as may be prescribed by the Statutes.

(*3*) The Chairman shall be nominated by the Vice-Chancellor from amongst the members of the Board.

(*4*) The term of office of elected or co-opted members shall be three years.

(*5*) The Board shall have the right to bring to the notice of the Academic Council or the Syndicate any matter connected with the examinations with which it is concerned and to recommend to the Faculty concerned any matter concerning the courses with which it is concerned.

(*6*) The other powers and duties of the Boards of Studies shall be as prescribed by the Statutes.

25. (*1*) The University shall establish a Board of Extra-Mural Studies, a Board for Students' Welfare and such other Boards as may be prescribed by the Statutes. University Boards.

(*2*) The constitution, powers and duties of the Boards established under sub-section (*1*) shall be as prescribed by the Ordinances.

26. The constitution, powers and duties of such other bodies as may be declared by the Statutes to be authorities of the University shall be as prescribed by the Statutes. Other authorities.

CHAPTER V.

STATUTES, ORDINANCES AND REGULATIONS.

Statutes.

27. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

(*i*) conferment of honorary degrees;

(*ii*) holding of convocations to confer degrees;

(*iii*) powers and duties of the officers of the University;

(*iv*) constitution, powers and duties of the authorities of the University save as provided in this Act;

(*v*) institution and maintenance by the University of departments, institutes of research or specialized studies and hostels;

(*vi*) acceptance and management of bequests, donations and endowments;

(*vii*) registration of graduates and maintenance of a register of registered graduates;

(*viii*) procedure at meetings of the authorities of the University and for the transaction of their business;

(*ix*) qualifications of professors, readers, lecturers and teachers in affiliated colleges and recognized institutions;

(*x*) all matters which by this Act are to be or may be prescribed by the Statutes.

Statutes, their making, amendment, repeal and operation.

28. (*1*) The Statutes may be made by the Senate or may be amended, repealed or added to by Statutes made by the Senate in the manner hereinafter provided.

(*2*) The Senate may take into consideration the draft of a Statute either of its own motion or on a proposal by the Syndicate.

(*3*) The Syndicate may propose to the Senate draft of any Statute to be passed by the Senate.

(*4*) Such draft shall be considered by the Senate at its next succeeding meeting The Senate may approve such draft and pass the Statute or may reject it or return it to the Syndicate for reconsideration either in whole or in part together with any amendments which the Senate may suggest. After any draft so returned has been further considered by the Syndicate together with any amendments suggested by the Senate, it shall be again presented to the Senate with the report of the Syndicate thereon and the Senate may then deal with the draft in any manner it thinks fit.

(*5*) Where a Statute affects the powers or duties of any officer, authority or Board of the University—

(*i*) the Syndicate shall, before proposing the draft of such Statute, ascertain and consider the views of the officer, authority or Board concerned; and

(*ii*) the Senate, before passing any such Statute taken into consideration of its own motion, shall ascertain and consider the views of the officer, authority or Board concerned and the opinion of the Syndicate.

(*6*) Every Statute passed by the Senate shall be submitted to the Chancellor who may give or withhold his assent thereto or refer it back to the Senate for consideration.

(*7*) No Statute passed by the Senate shall have validity until assented to by the Chancellor.

29. Subject to such conditions as may be prescribed by or under the provisions of this Act, the Syndicate may make Ordinances to provide for all or any of the following matters :— Ordinances.

(*i*) conditions under which students shall be admitted to courses of studies for degrees, titles, diplomas and other academic distinctions ;

(*ii*) conditions of residence, conduct and discipline of students of the University;

(*iii*) conditions governing the appointment and the duties of examiners ;

(*iv*) conduct of examinations ;

(*v*) recognition of hostels ;

(*vi*) recognition of teachers of the University ;

(*vii*) inspection of affiliated colleges, recognized institutions and hostels ;

(*viii*) mode of execution of contracts or agreements for, or on behalf of, the University ;

(*ix*) rules to be observed and enforced by colleges and recognized institutions in respect of transfer of students ;

(*x*) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances ; and

(*xi*) generally all matters for which provision is, in the opinion of the Syndicate, necessary for the exercise of the powers conferred or the performance of the duties imposed upon the Syndicate by this Act or the Statutes.

30. (*1*) Ordinances shall be made by the Syndicate : Making of Ordinances.

Provided that no Ordinance concerning the matters referred to in clauses (*i*), (*iii*), (*iv*) and (*vi*) of section 29 or any other matter connected with the maintenance of the standards of teaching and examinations within the university shall be made unless a draft of the same has been proposed by the Academic Council.

(*2*) The Syndicate shall not have power to amend any draft proposed by the Academic Council under sub-section (*1*) but may reject it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Syndicate may suggest.

(*3*) All Ordinances made by the Syndicate shall, except as provided by this Act, have effect from such date as it may direct but every Ordinance so made shall be laid before the Senate and shall be considered by the Senate at its next succeeding meeting.

(*4*) The Senate shall have power by a resolution to cancel or to refer back but not to amend any such Ordinance. The resolution shall be passed by a majority of not less than two thirds of the members present at such meeting, the majority comprising not less than one-half of the members of the Senate.

(*5*) The Vice-Chancellor shall, on the application of not less than fifty members of the Senate, suspend the operation of any such Ordinance until the Senate has considered it as provided in sub-section (*3*).

31. (*1*) The Academic Council may, subject to the approval of the Syndicate, make regulations, consistent with this Act, the Statutes and the Ordinances providing for all matters which by this Act, the Statutes or the Ordinances are to be provided for by Regulations and for all other matters solely concerning itself. Regulations and Rules.

(*2*) Any authority of the University specified in clauses (*iv*) to (*vi*) of section 14 and any other Board of the University may, subject to the approval of the Syndicate make rules, consistent with this Act, the Statutes, Ordinances and Regulations, providing for all matters solely concerning such authority or Board.

CHAPTER VI.

Affiliation and Recognition.

Affiliation.

32. (*1*) A college applying for affiliation to the University shall send a letter of application to the Registrar, and shall satisfy the Syndicate and the Academic Council—

(*a*) that the college will supply a need in the locality, having regard to the type of education intended to be provided by the college, the existing provision for the same type of education made by other colleges in the neighbourhood, and the suitability of the locality where the college is to be established ;

(*b*) that the college is to be under the management of a regularly constituted governing body ;

(*c*) that the strength and qualifications of the teaching staff and the conditions governing their tenure of office are such as to make due provision for the courses of instruction, teaching or training to be undertaken by the college ;

(*d*) that the buildings in which the college is to be located are suitable, and that provision will be made, in conformity with the Ordinances, for the residence in the college or in lodgings approved by the college, of students not residing with their parents or guardians, and for the supervision and welfare of students ;

(*e*) that due provision has been made or will be made for a library ;

(*f*) where affiliation is sought in any branch of experimental science, that arrangements have been or will be made in conformity with the Statutes, Ordinances and Regulations for imparting instruction in that branch of science in a properly equipped laboratory or museum ;

(*g*) that due provision will, as far as circumstances may permit, be made for the residence of the Principal and some members of the teaching staff in or near the college or the place provided for the residence of students ;

(*h*) that the financial resources of the college are such as to make due provision for its continued maintenance and efficient working ; and

(*i*) that the college rules fixing the fees (if any) to be paid by the students have not been so framed as to involve such competition with any existing college in the same neighbourhood as would be injurious to the interests of education.

The application shall further contain an assurance that after the college is affiliated, any transference of management and all changes in the teaching staff and all other changes which result in any of the aforesaid requirements not being fulfilled or continued to be fulfilled shall be forthwith reported to the Syndicate.

(*2*) On receipt of a letter of application under sub-section (*1*) the Syndicate shall—

(*a*) direct a local inquiry to be made by a competent person or persons authorized by the Syndicate in this behalf in respect of the matters referred to in sub-section (*1*) and such other matters as may be deemed necessary and relevant ;

(*b*) make such further inquiry as may appear to it to be necessary ; and

(*c*) record its opinion after consulting the Academic Council on the question whether the application should be granted or refused, either in whole or in part, stating the results of any inquiry under clauses (*a*) and (*b*).

(*3*) The Registrar shall submit the application and all proceedings, if any, of the Academic Council and the Syndicate relating thereto to the Provincial Government which, after such inquiry as may appear to it to be necessary, shall grant or refuse the application or any part thereof.

(*4*) Where the application or any part thereof is granted, the order of the Provincial Government shall specify the courses of instruction in respect of which the college is affiliated, and, where the application or any part thereof is refused, the grounds of such refusal shall be stated.

(*5*) As soon as possible after the Provincial Government makes its order, the Registrar shall submit to the Senate a full report regarding the application, the action taken thereon under sub-sections (*2*) to (*4*) and of all proceedings connected therewith.

(*6*) An application under sub-section (*1*) may be withdrawn at any time before an order is made under sub-section (*3*).

Extension of affiliation.

33. Where a college desires to add to the courses of instruction in respect of which it is affiliated the procedure prescribed by section 32 shall, so far as may, be followed.

Recognition of institutions of research and specialized studies.

34. (*1*) The Syndicate shall have the power, after consultation with the Academic Council, to recognize as a recognized institution any institution of research or specialised studies other than a college.

(*2*) An institution applying for recognition under this section shall send a letter of application to the Registrar and shall give full information in the letter of application in respect of the following matters, namely :—

(*a*) constitution and personnel of the managing body ;

(*b*) subjects and courses in regard to which recognition is sought ;

(*c*) accommodation, equipment and the number of students for whom provision has been or is proposed to be made ;

(*d*) the strength of the staff, their qualifications and salaries and the research work done by them ;

(*e*) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for the continued maintenance and efficient working of the institution.

(*3*) Before taking the application into consideration the Syndicate may call for any further information which it may deem necessary.

(*4*) If the Syndicate decides to take the application into consideration, it may direct a local inquiry to be made by a competent person or persons authorized by it in this behalf. After considering the report made as a result of such local inquiry and making such further inquiry as may appear to it to be necessary, the Syndicate shall, after consultation with the Academic Council, grant or refuse the application or any part thereof. Where the application or any part thereof is granted, the Syndicate shall specify the subjects and the courses of instruction in respect of which the institution is recognized and make a report to that effect to the Academic Council and the Senate at their next succeeding meeting. Where the application or any part thereof is refused the grounds of such refusal shall be stated.

Inspection of colleges and reports.

35. (*1*) Every affiliated college and recognized institution shall furnish such reports, returns and other information as the Syndicate after consulting the Academic Council may require to enable it to judge of the efficiency of the college or institution.

(*2*) The Syndicate shall cause every such college or institution to be inspected from time to time by one or more competent persons authorized by the Syndicate in this behalf.

(*3*) The Syndicate may call upon any college or institution so inspected to take, within a specified period, such action as may appear to it to be necessary in respect of any of the matters referred to in sub-section (*1*) of section 32 and sub-section (*2*) of section 34.

Withdrawal of affiliation.

36. (*1*) The rights conferred on a college by affiliation may be withdrawn in whole or in part or modified if the college has failed to carry out any of the provisions of sub-section (*1*) of section 32 or the college has failed to observe any of the conditions of its affiliation or the college is conducted in a manner which is prejudicial to the interests of education.

(*2*) A motion for the withdrawal or the modification of such rights shall be initiated only in the Syndicate. The member of the Syndicate who intends to move such a motion shall give notice of it and shall state in writing the grounds on which it is made.

(*3*) Before taking the said motion into consideration, the Syndicate shall send a copy of the notice and writen statement mentioned in sub-section (*2*) to the Principal of the college concerned, together with an intimation that any representation in writing submitted within a period specified in such intimation on behalf of the college will be considered by the Syndicate:

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(*4*) On receipt of the representation or on the expiry of the period referred to in sub-section (*3*), the Syndicate after considering the notice of motion, statement and representation, and after such inspection by any competent person or persons authorized by the Syndicate in this behalf, and such further inquiry as mayappear to it to be necessary and after consulting the Academic Council shall make a report to the Senate.

(*5*) On receipt of the report under sub-section (*4*) the Senate shall, after such further inquiry, if any, as may appear to it to be necessary, record its opinion in the matter:

Provided that no resolution of the Senate recommending the withdrawal of affiliation shall be deemed to have been passed by it unless the resolution has obtained the support of two-thirds of the members present at a meeting of the Senate such majority comprising not less than one-half of the members of the Senate.

(*6*) The Registrar shall submit the proposal and all proceedings, if any, of the Academic Council, the Syndicate and the Senate relating thereto, to the Provincial Government which, after such further inquiry, if any, as may appear to it to be necessary, shall make such order as it deems fit.

(*7*) Where by an order made under sub-section (*6*), the rights conferred by affiliation are withdrawn in whole or in part or modified, the grounds for such withdrawal or modification shall be stated in the order.

Withdrawal of recognition.

37. (*1*) The rights conferred on an institution by recognition may be withdrawn or suspended for any period if the institution has failed to observe any of the conditions of its recognition or the institution is conducted in a manner which is prejudicial to the interest of education.

(*2*) A motion for such withdrawal or suspension shall be initiated only in the Syndicate. The member of the Syndicate who intends to move such a motion shall give notice of it and shall state in writing the grounds on which it is made.

(*3*) Before taking the said motion into consideration, the Syndicate shall send a copy of the notice and written statement mentioned in sub-section (*2*) to the head of the institution concerned, together with an intimation that any representation in writing submitted within a period specified in the intimation on behalf of the institution will be considered by the Syndicate:

Provided that the period so specified may, if necessary, be extended by the Syndicate.

(*4*) On receipt of the representiation or on the expiry of the period referred to in sub-section (*3*), the Syndicate after considering the notice of motion, statement and representation and after such inspection by any competent person or persons authorized by the Syndicate in this behalf, and after such further inquiry as may appear to it to be necessary and after consulting the Academic Council, shall make a report to the Senate if the Syndicate dicides that the recognition should be withdrawn or suspended. No such report for withdrawal or suspension shall be made unless a resolution to that effect is supported by at least two-thirds of the members present at the meeting of the Syndicate.

(*5*) On receipt of the report under sub-section (*4*) the Senate shall, after such further inquiry, if any, as may appear to it to be necessary decide whether the recognition should be withdrawn or suspended, as the case may be:

Provided that the recognition shall not be withdrawn or suspended unless a resolution of the Senate to that effect is supported by a majority of at least two-thirds of the members present at the meeting of the Senate such majority comprising not less than one-half of the members of the Senate.

CHAPTER VII.

POST-GRADUATE TEACHING.

Post-graduate teaching.

38. (*1*) Within the Universiy Area all post-graduate instruction, teaching and training shall be conducted either by the University or by such affiliated colleges or institutions and in such subjects as may be prescribed by the Statutes.

(*2*) For the purpose of organizing and co-ordinating the post-graduate instruction, teaching and training in the University area, there shall be constituted a Board to be known as the Board of University Teaching. The constitution, powers and duties of the Board shall be as prescribed by the Statutes.

CHAPTER VIII.

ENROLMENT AND DEGREES.

Qualification for enrolment of students of the University.

39. No student shall be enrolled as a student of the University unless he has passed—

(*i*) the Secondary School Certificate Examination conducted by the Secondary School Certificate Examination Board in such subjects and with such standards of attainments as may be prescribed by the Statutes, or

(*ii*) the Entrance Examination, if any, which may be instituted by the University with the consent of the Provincial Government, and held in such subjects and in such manner as may be prescribed by the Statutes, or

(*iii*) any other examination prescribed as equivalent to the examinations referred to in clauses (*i*) and (*ii*),

and possesses such further qualification, if any, as may be prescribed by the Statutes.

Residence of students.

40. Every student of the University shall reside in a hostel or under such conditions as may be prescribed by the Ordinances.

Degrees, titles, diplomas and other academic distinctions.

41. The Senate may institute and confer such degrees, titles, diplomas and other academic distinctions as may be prescribed by the Statutes.

Honorary degree.

42. If not less than two-thirds of the members of the Syndicate recommend that an honorary degree, title or other academic distinction be conferred on any person on the ground that he is in their opinion, by reason of eminent position and attainments, a fit and proper person to receive such degree, title or other academic distinction and where their recommendation is supported by a majority of not less than two-thirds of the members of the Senate present at a meeting of the Senate, such majority comprising not less than one-half of the members of the Senate, and the recommendation is confirmed by the Chancellor, the Senate may confer on such person the honorary degree, title or other academic distinction so recommended without requiring him to undergo any examination.

Removal from membership of University and withdrawal of degree or diploma.

43. (*1*) The Chancellor may, on the recommendation of the Syndicate and of the Senate supported by a majority of not less than two-thirds of the members of each body present at its meeting, such majority comprising not less than one-half of the members of each body, remove the name of any person from the register of graduates or withdraw from any person a diploma or degree if he has been convicted by a Court of Law of any offence which, in the opinion of the Syndicate and the Senate is a serious offence involving moral turpitude or if he has been guilty of scandalous conduct.

(*2*) No action under this section shall be taken unless the person concerned is given an opportunity to be heard in his defence in the manner prescribed by the Statutes.

CHAPTER IX.

COMMITTEES.

Committee of Selection for appointment of teachers of the University.

44. (*1*) No person shall be appointed as a teacher of the University except on the recommendation of a Committee of Selection constituted for the purpose.

(*2*) The members of the Committee shall be—

(*i*) the Vice-Chancellor—*ex-officio* Chairman ;

(*ii*) the Head of the University Department in the subject for which the teacher is to be appointed ;

(*iii*) one member elected by the Syndicate ;

(*iv*) one member elected by the Academic Council ;

(*v*) one member nominated by the Chancellor.

(*3*) The Committee shall investigate the merits of the various candidates, and shall recommend to the Syndicate the names, if any, of persons whom it considers suitable for the post, arranged in the order of merit.

(*4*) Out of the persons so recommended, the Syndicate shall make the final selection :

Provided that where the Syndicate proposes to make the appointment otherwise than in accordance with the order of merit arranged by the Committee, the Syndicate shall record its reasons and submit its proposal for the sanction of the Chancellor.

45. (*1*) No person shall be recognized as a teacher of the University except on the recommendation of a Committee constituted for the purpose. Committee for recognition of teachers of the University.

(*2*) The members of the Committee shall be—

(*i*) The Vice-Chancellor—*ex-officio* Chairman ;

(*ii*) The Head of the University Department, if any ;

(*iii*) Four persons having special knowledge of the subject for which the teacher is to be recognized, to be selected as follows, namely :—

(*a*) Two by the Syndicate, who shall not be members of the Senate, members of Faculties or teachers,

(*b*) Two by the Academic Council, from amongst its members.

46. (*1*) A Committee for each Faculty shall be formed every year for the purpose of drawing up lists for appointments to University examinerships. Appointment of Examiners Committee.

(*2*) The members of the Committee shall be—

(*i*) The Vice-Chancellor—*ex-officio* Chairman ;

(*ii*) The Dean of the Faculty ;

(*iii*) Two members appointed by the Academic Council ;

(*iv*) One member appointed by the Syndicate.

(*3*) The Committee shall draw up the lists from amongst persons included in panels to be prepared by the Boards of Studies. The lists so drawn up shall be submitted to the Syndicate. The Syndicate shall make the appointments of examiners :

Provided that no change in the lists shall be suggested or made by the Syndicate except by passing a special resolution stating the specific grounds on which each change suggested or made is based.

(*4*) If any examiner is unable to act for any cause and a fresh appointment cannot be made in time by the Syndicate, the Vice-Chancellor shall appoint another examiner to fill the vacancy and shall report such appointment to the Syndicate.

47. (*1*) There shall be a Legal Advisory Committee to advise the Syndicate and other authorities of the University on matters conncerning legal issues. Legal Advisory Committee.

(*2*) The constitution, powers and duties of the Committee shall be as prescribed by Ordinances.

48. (*1*) There shall be a Financial Advisory Committee to advise the Syndicate and other authorities of the University on financial matters. Financial Advisory Committee.

(*2*) The Financial Advisory Committee shall consist of—

(*i*) the Vice-Chancellor—*ex-officio* Chairfman, and

(*ii*) two members elected by the Senate.

(3) The powers and duties of the Committee and the term of office of its members shall be as prescribed by Ordinances.

Committees.

49. All the authorities of the University shall have power to appoint committees. Such committees may include persons who are not members of the authority appointing the committee.

CHAPTER X.

FINANCE.

University Fund.

50. (1) The University shall establish a fund to be called the University Fund.

(2) The following shall form part of, or be paid into, the University Fund :—

(a) any contribution or grant by the Provincial Government,

(b) the income of the University from all sources including income from fees and charges,

(c) bequests, donations, endowments and other grants, if any.

(3) The University Fund shall be kept in any scheduled bank as defined in the Reserve Bank of India Act, 1934, or invested in securities authorized by the Indian Trusts Act, 1882, at the discretion of the Syndicate. II of 1934. II of 1882.

Annual Accounts and Financial estimates.

51. (1) The annual accounts of the University shall be prepared under the direction of the Syndicate and shall be submitted to the Provincial Government for audit.

(2) The accounts when audited shall be published by the Syndicate in the *Official Gazette* and copies thereof shall, together with the copies of the Audit Report, be submitted to the Senate and to the Provincial Government.

(3) The Syndicate shall also prepare, before such date as may be prescribed by the Statutes, the financial estimates for the ensuing year

(4) The annual accounts and the financial estimates shall be considered by the Senate at its annual meeting and the Senate may pass resolutions with reference thereto and communicate the same to the Syndicate which shall take them into consideration and take such action thereon as it thinks fit, and finally adopt the accounts and financial estimates. The Syndicate shall inform the Senate at its next meeting, of the action taken by it or of its reasons for taking no action.

Annual Report.

52. The Annual Report of the University shall be prepared under the direction of the Syndicate and shall be submitted to the Senate on or before such date as may be prescribed by the Statutes and shall be considered by the Senate at the annual meeting. The Senate may pass resolutions thereon and communicate the same to the Syndicate which shall take such action as it thinks fit ; and the Syndicate shall inform the Senate at its next meeting of the action taken by it or of its reasons for taking no action.

CHAPTER XI.

SUPPLEMENTARY PROVISIONS.

Conditions of service.

53. Save as otherwise provided by or under this Act, every salaried officer and teacher of the University shall be appointed under a written contract. The contract shall be lodged with the Registrar of the University and a copy thereof shall be furnished to the officer or teacher concerned.

54. Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Syndicate, one member nominated by the officer or teacher concerned and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final and no suit shall lie in any Civil Court in respect of the matter decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section within the meaning of the Indian Arbitration Act, 1940, and the provisions of that Act shall apply accordingly. Tribunal of Arbitration. X of 1940.

55. The University shall make adequate provisions for the benefit of its officers, teachers and other servants in matters of insurance, pension and provident fund or for other benefits as it may deem fit in such manner and subject to such conditions as may be prescribed by the Statutes. Pension, Insurance and Provident Fund.

56. Every election to the Senate, the Syndicate and the Academic Council under this Act shall be made according to the system of proportional representation by means of a single transferable vote and in such manner as may be prescribed by the Statutes. Elections to be by proportional representation.

57. (*1*) Any member of any authority or body of the University may resign his office by letter addressed to the Registrar. Vacating of office.

(*2*) Any member of any authority or body of the University shall cease to be a member on his being convicted by a Court of Law of an offence which involves moral turpitude.

58. When any vacancy occurs in the office of a member (other than an ex-officio member) of any authority or other body of the University before the expiry of the term of office of such member, the vacancy shall be filled up, as soon as conveniently may be, by the election, nomination, appointment or co-option, as the case may be, of a member who shall hold office so long only as the member in whose place he has been elected, nominated, appointed or co-opted, would have held it, if the vacancy had not occurred : Filling of casual vacancies.

Provided that, if the vacancy be of an elected member of the Senate and occurs within six months preceding the date on which the term of office of such member expires, the vacancy shall not be filled.

59. No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of any vacancy in its membership. Proceedings not invalidated by vacancy.

60. If any question arises regarding the interpretation of any provision of this Act, or of any Statute, Ordinance, Regulation or Rule, or as to whether a person has been duly elected or appointed as or is entitled to be, a member of any authority or other body of the University, the matter may be referred to the Chancellor and shall be so referred to him if twenty-five members of the Senate so require. The Chancellor shall, after taking such advice as he deems necessary, decide the question and his decision shall be final. Disputes as to constitution of University authority or body.

61. All acts and orders in good faith done and passed by the University or any of its authorities, bodies or officers shall be final and no suit shall be instituted against or damage claimed from the University or its authorities, bodies or officers for anything purporting to be done in pursuance of the Act and the Statutes, Ordinances, Regulations and Rules framed thereunder. Protection of acts and orders.

CHAPTER XII.

TRANSITORY PROVISIONS.

Completion of courses of Students in Colleges affiliated to the Bombay University.

62. Notwithstanding anything contained in this Act, or the Statutes, Ordinances and Regulations made thereunder, any student of a college situate within the University area and affiliated to the University of Bombay who immediately before the date on which section 5 came into force was studying or was eligible for any examination of the University of Bombay shall be permitted to complete his course in preparation therefor, and the University shall provide for such period and in such manner as may be prescribed by the Statutes for the instruction, teaching, training and examination of such students in accordance with the course of studies of the University of Bombay.

Appointment of Vice-Chancellor.

63. Notwithstanding anything contained in section 10, the first Vice-Chancellor shall be appointed by the Provincial Government as soon as practicable after the passing of this Act, for a period not exceeding three years and on such terms and conditions as the Provincial Government thinks fit.

Appointment of first Registrar.

64. Notwithstanding anything contained in section 12, the first Registrar shall be appointed by the Provincial Government as soon as practicable after the passing of this Act for a period not exceeding three years and on such conditions as the Provincial Government thinks fit.

Transitory powers of the first Vice-Chancellor.

65. (*1*) It shall be the duty of the first Vice-Chancellor—

(*a*) to give recognition to institutions, if any, as far as possible consistently with the provisions of section 34 and

(*b*) to make arrangements for constituting the Senate, the Syndicate, the Academic Council and other authorities of the University,

within six months after the date of his appointment or such longer period not exceeding one year as the Provincial Government may, by notification in the *Official Gazette*, direct.

(*2*) The first Vice-Chancellor shall with the assistance of the Advisory Committee consisting of not more than fifteen members nominated by the Provincial Government—

(*a*) subject to the provisions of the Act and the approval of the Chancellor,—

(*i*) make provisional Statutes necessary for constituting the aforesaid authorities and regulating the procedure at their meetings and the transaction of their business,

(*ii*) draw up any rules that may be necessary for regulating the method of election to the aforesaid authorities,

(*b*) frame the first Statutes, Ordinances and Regulations under this Act and submit them for confirmation to the respective authorities when they commence to exercise their functions.

(*3*) The authorities constituted under sub-section (*1*) shall commence to exercise their functions on such date or dates as the Provincial Government may, by notification in the *Official Gazette*, direct.

(*4*) The Statutes, Ordinances and Regulations framed by the first Vice-Chancellor shall when confirmed by the respective authorities be published in the *Official Gazette*.

66. (*1*) At any time after the passing of this Act until such time as the authorities of the University shall commence to exercise their functions— First appointment of the officers and teachers of the University.

(*a*) any officer of the University may be appointed by the Vice-Chancellor with the previous sanction of the Chancellor,

(*b*) teachers of the University may be appointed by the Chancellor after considering the recommendations of an Advisory Committee consisting of the Vice-Chancellor, the Director of Public Instruction and such other person or persons, if any, as the Chancellor thinks fit to associate with them.

(*2*) Any appointment made under sub-section (*1*) shall be for such period not exceeding three years and on such conditions as the appointing authority thinks fit :

Provided that no such appointment shall be made until financial provision has been made therefor.

67. The Vice-Chancellor appointed under section 63 shall have powers until the Syndicate commences to exercise its functions— Extraordinary powers of the first Vice-Chancellor.

(*a*) with the previsous approval of the Chancellor to make additional statutes to provide for any matter not provided for by the first Statutes,

(*b*) to constitute provisional authorities and bodies and on their recommendations to make rules providing for the conduct of the work of the University,

(*c*) subject to the control of the Provincial Government to make such financial arrangements as may be necessary to enable this Act or any part thereof to be brought into force,

(*d*) with the sanction of the Chancellor to make for a period not exceeding three years such appointments as may be necessary to enable this Act or any part thereof to be brought into force,

(*e*) to appoint any Committee as he may think fit, to discharge such of his functions as he may direct, and

(*f*) generally to exercise all or any of the powers conferred on the Syndicate by or under the provisions of this Act.

68. If any difficulty arises as to the first constitution or re-constitution of any authority of the University after the coming into force of this Act or otherwise in first giving effect to the provisions of this Act, the Provincial Government, as occasion may require, may by order do anything which appears to it necessary for the purpose of removing the difficulty. Removal by Provincial Government of difficulties at the commencement of the Act.

SCHEDULE.

[*See* Section 2 (*15*).]

1. Belgaum District.
2. Dharwar District.
3. Bijapur District.
4. Kanara District.

THE BOMBAY SEALS ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Amendment of clause 6 of the Letters Patent of 28th December 1865.
3. Amendment of section 11 of Act XIV of 1869. (*Not printed.*)
4. Amendment of section 29 of Act XIV of 1869. (*Not printed.*)

BOMBAY ACT No. XXII OF 1949.[1]

[THE BOMBAY SEALS ACT, 1949.]

[*12th May 1949.*]

An Act to provide for the alteration of seals prescribed in the Letters Patent of the High Court and certain enactments.

WHEREAS it is expedient to provide for the alteration of seals prescribed in the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand eight hundred and sixty-five, and the Bombay Civil Courts Act, 1869 ; It is hereby enacted as follows :—

XIV of 1869.

1. (*1*) This Act may be called the Bombay Seals Act, 1949.

Short title and commencement.

(*2*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint.

2. In clause 6 of the Letters Patent of the High Court of Judicature for the Presidency of Bombay, bearing date the twenty-eighth day of December, One thousand eight hundred and sixty-five, for the words " Our Royal Arms " the words " the Asoka Capital Motif " shall be substituted.

Amendment of clause 6 of the Letters Patent of 28th December 1865.

3-4. [*Amendments made by these sections have been incorporated in the Bombay Civil Courts Act, 1869 (XIV of 1869).*]

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 165.

THE BOMBAY EVACUEES (ADMINISTRATION OF PROPERTY) ACT, 1949.

CONTENTS.

PREAMBLE

SECTIONS.

1. Short title and extent.
2. Definitions.
3. Appointment of Custodian, etc.
4. Vesting of evacuee property in Custodian.
5. Payment to Custodian of sums payable to evacuees.
6. Custodian to take possession of evacuee property.
7. Inquiry into claims to evacuee property.
8. Prohibitions of certain transations affecting evacuee property.
9. Appeals.
10. Exemption from attachment.
11. Powers of Custodian in regard to management.
12. Maintenance of accounts.
13. Fees.
14. Return of property.
15. Powers of Custodian holding inquiry.
16. Power of Custodian to obtain information.
17. Other powers of Custodian.
18. Penalty for failing to surrender possession of, or to vacante, property.
19. Certain officers to be public servants.
20. Orders not to be called in question.
21. Procedure.
22. Saving.
23. Effect of Acts, etc., inconsistent with other enactments.
24. Bar to legal proceedings.
25. Recovery of arrears.
26. Records under Act to be public documents..
27. Notice to Custodian.
28. Power to make rules.

BOMBAY ACT No. XXIV OF 1949.[1]

[THE BOMBAY EVACUEES (ADMINISTRATION OF PROPERTY ACT, 1949.]

[*17th May 1949.*]

An Act to provide for the administration of evacuees' property in the Province of Bombay.

WHEREAS it is expedient to provide for the administration of evacuees' property in the Province of Bombay with a view to preserving and protecting such property from misappropriation, deterioration or waste and for certain other purposes hereinafter specified ; It is hereby enacted as follows :—

Short title and extent.

1. (*1*) This Act may be called the Bombay Evacuees (Administration of Property) Act, 1949.

(*2*) It shall extend to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) "Custodian" means the Custodian of Evacuee Property and includes a Deputy Custodian of Evacuee Property and an Assistant Custodian of Evacuee Property, appointed under this Act ;

(*b*) "evacuee" means—

(*1*) a person ordinarily resident in, or owning property or carrying on business within, the territories comprised in the Province of Bombay, who on account of civil disturbances or the fear of such disturbances, or the partition of the country,—

(*i*) leaves or has since the 15th day of August 1947 left the said territories for a place outside India ; or

(*ii*) leaves or has since the 15th day of August 1947 left the said territories for any place outside the Province, but within the Dominion of India, and cannot personally occupy or supervise his property or carry on his business or watch his interests or enforce his rights within the Province ; or

(*2*) a person not resident in, but owning property or carrying on business within, the territories comprised in the Province of Bombay, who on account of civil disturbances or the fear of such disturbances, or the partition of the country, cannot personally occupy or supervise his property or carry on his business or watch his interests or enforce his rights within the Province.

Explanation.—If any question arises whether a person is an evacuee or not, the question shall be referred to the Provincial Government whose decision shall be final ;

(*c*) "evacuee property" means all property which belongs to, or was occupied by, an evacuee, but does not include any moveable property in his immediate physical possession ;

(*d*) "personal supervision (with its grammatical variations) of property or carrying on business or watching one's interest or enforcing one's right" means supervision or carrying on busines, watching or enforcing, as the case may be, under one's personal presence or by the agents or servants under one's personal presence in the Province.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 544.

Explanation.—If a person is a widow or a minor or is subject to any physical or mental disability, such person shall be deemed to supervise the property or to carry on business or to watch his interest or to enforce his rights personally, if such supervision is made by the agent or guardian of the person duly recognised in this behalf by the Provincial Government or such officer as the Provincial Government may authorise in this behalf;

(*e*) "prescribed" means prescribed by rules made under this Act; and

(*f*) "property" means any moveable or immovable property and includes any right or interest in any shop or business establishment or any factory or workshop or undertaking or in any debt or actionable claim other than a mere right to sue but does not include cash deposits in banks.

Appointment of Custodian, etc.

3. For the purposes of this Act, the Provincial Government may appoint a Custodian of Evacuee Property for the Province of Bombay, and, either by name or designation, one or more Deputy Custodians of Evacuee Property and Assistant Custodians of Evacuee Property for such local area as may be specified, and may, by general or special order, provide for the distribution or allocation of the work to be performed by them under this Act or the rules made thereunder.

Vesting of evacuee property in Custodian.

4. All evacuee property situated within the Province shall vest in the Custodian for the purposes of this Act and shall continue to be so vested until the Provincial Government by notification otherwise directs.

Payment to Custodian of sums payable to evacuees.

5. (*1*) Any sum payable to an evacuee in respect of any contract or loan or otherwise howsoever shall be paid to the Custodian by the person liable to pay such sum and shall be held by the Custodian subject to the provisions of this Act.

(*2*) Any payment made otherwise than in accordance with sub-section (*1*) shall not be deemed to discharge the obligation, and shall not affect the right of the Custodian to enforce such obligation.

Custodian to take possession of evacuee property.

6. (*1*) Subject to the provisions of this Act, a Custodian may by general or special order with reference to the location or description of a specific or any class of evacuee property assume possession of, or control over, the property mentioned in the order which shall be published in the *Official Gazette*. From the date of the order, the holder of such property, if any, shall be deemed to be holding it on behalf of the Custodian and shall on demand deliver possession of it to the Custodian or a person authorised by him in this behalf.

(*2*) If the holder of such property refuses or fails to deliver possession of the property, the Custodian may evict such person and use all force necessary thereto, and may, after giving reasonable warning and facility to any woman not appearing in public to withdraw, remove or open any lock or bolt or break open any door or do any act necessary for taking possession of the property.

(*3*) The Custodian shall proceed to take possession of the property in the presence of not less than two residents of the locality, at least one of whom if possible shall be a member of the community to which the evacuee owner belongs, and shall prepare a record, in duplicate, of the proceedings which shall be signed by him and each of the witnesses.

(*4*) When the Custodian takes possession of moveable property (including the stock-in-trade or plant or machinery of any undertaking), he shall prepare an inventory, in duplicate, of all such moveable property in the presence of not less than two residents of the locality at least one of whom if possible shall be a person

belonging to the community to which the evacuee owner belongs, and also a record of his proceedings, in duplicate, and each copy shall be signed by him and each of the witnesses.

(*5*) On the conclusion of the proceedings under sub-section (*3*) or sub-section (*4*), the Custodian shall forward one copy of the record and inventory where the property is situated in Greater Bombay to the Bombay City Civil Court and where the property is situated elsewhere to the District Court concerned for record.

Inquiry into claims to evacuee property.

7. (*1*) Any person claiming any right to or interest in any property, of which the Custodian has taken possession under section 6, may prefer such claim to the Custodian by an application within thirty days from the date on which the possession of the property was taken.

(*2*) The Custodian may, after summary inquiry, reject the application, if it appears to him that the claim is untenable.

(*3*) If upon such inquiry it appears to the Custodian that the applicant has a right to, or interest in, the property, he may make such order as he considers proper in order to give effect to such right or interest consistently with the objects of this Act:

Provided that if the Custodian is satisfied that the property is not evacuee property and that the applicant is entitled to the exclusive possession of the property, he may deliver possession of the property to the applicant.

(*4*) The Custodian shall record an order made under sub-section (*2*) or (*3*) setting out his findings and the reasons therefor.

(*5*) Any person aggrieved by an order made under sub-section (*2*) or (*3*) may, in Greater Bombay, appeal to the Bombay City Civil Court and elsewhere to the District Court concerned within one month of the making of the order.

(*6*) The High Court may of its own motion or on an application made to it call for the record of any proceedings relating to an evacuee property whether pending or disposed of under sub-section (*2*) or (*3*) for the purpose of satisfying itself as to the legality or propriety of an order passed in the aforesaid proceedings, and may pass such order in relation thereto as it may think fit.

(*7*) Subject to the decision of the Court in appeal or the High Court in revision the order of the Custodian shall be final and conclusive.

Prohibition of certain transactions affecting evacuee property.

8. (*1*) No sale, mortgage, pledge, lease, exchange or other transfer of any property or of any interest or right in or over any property made by an evacuee or by any person in anticipation of his becoming an evacuee, or by the agent, assign or attorney of the evacuee or such person, on or after the date on which this Act comes into force, shall be effective so as to confer any rights or remedies on the parties to such transfer or on any person claiming under them unless it is confirmed by the Custodian.

(*2*) An application for confirming such transfer may be made by any person claiming thereunder or by any person lawfully authorised by him.

(*3*) The Custodian shall reject any application made after the expiration of two months from the date of the transaction.

(*4*) The Custodian shall hold a summary inquiry into an application which is not rejected under sub-section (*3*), and may decline to confirm the transaction if it appears to the Custodian that—

(*a*) the transaction was not a *bona fide* one for valuable consideration; or

(*b*) the transaction was made with the object of the disposal of the property by the person who, on account of civil disturbances or the fear of such disturbances or partition of the country intends to leave, or has since the 15th day of August 1947 left, the territories comprised in the Province for a place outside India ; or

(*c*) the transaction is in the opinion of the Custodian prejudicial to the prescribed objects ; or

(*d*) for any other reason, to be recorded by the Custodian in writing, the transaction ought not to be confirmed.

(*5*) If the Custodian confirms the transaction he may confirm it unconditionally or subject to such conditions and terms as he may consider proper.

(*6*) The Custodian, if the order is pronounced in the absence of the applicant, shall forthwith give notice in writing to the applicant of any order passed by him under sub-section (*3*), (*4*) or (*5*).

Appeals.

9. (*1*) If the original order under section 8 is passed by an Assistant or Deputy Custodian of Evacuee Property, any person aggrieved by such order may appeal, within sixty days from the date of the communication of such order, to the Custodian of Evacuee Property and subject only to the decision on such appeal, if any, the order passed by the Assistant or Depurty Custodian of Evacuee Property, or any original or appellate order passed by the Custodian shall be final and conclusive.

(*2*) An appeal under this section may be admitted after the period of limitation prescribed therefor, if the appellant satisfies the Custodian to whom he appeals that he had sufficient cause for not presenting the appeal within such period.

Exemption from attachment.

10. All property of which the Custodian has taken possession under section 6 shall be exempt from attachment, distress or sale in execution of a decree of a court or an order of any other authority.

Powers of Custodian in regard to management.

11. (*1*) The Custodian may take or authorise the taking of such measures as he considers necessary or expedient for preserving the property of or over which he has taken possession or control and for the proper management thereof.

(*2*) Without prejudice to the generality of the foregoing provision, the Custodian may, for the said purposes,—

(*i*) carry on the business of the evacuee ;

(*ii*) take action for the recovery of any money due to the evacuee ;

(*iii*) make any contracts or execute any documents in the name and on behalf of the evacuee ;

(*iv*) institute, defend or continue any legal proceedings in a civil or revenue court on behalf of the evacuee, refer any dispute to arbitration and compromise any claims, debts or liabilities ;

(*v*) raise on the security of the property such loans as may be necessary ;

(*vi*) incur any expenditure, including the payment of any taxes, duties, cesses and rates to Government or to any local authority, and any wages and salaries, pensions or provident fund contributions to or in respect of any empolyee of the evacuee and the payment of any debt due by the evacuee to any person ;

(*vii*) transfer by way of sale or mortagage or lease or otherwise dispose of any of the property of the evacuee :

Provided that the Custodian shall not sell any immovable property or any shop or business establishment or any undertaking except on the orders of the Provincial Government ;

(*viii*) invest any money held by him in any of the securities approved by the Provincial Government;

(*ix*) make payments for the maintenance of the evacuee or his family;

(*x*) where any building vesting in him is through imminent danger of collapse or for any other reason a source of danger to persons residing or carrying on business in the vicinity, to have it demolished, and in such case to sell the materials;

(*xi*) appoint a manager for the property of the evacuee and authorise him to exercise any of the powers of the Custodian under this section, and subject to the orders of the Provincial Government, fix the remuneration payable to such manager; and

(*xii*) delegate by general or special order to such officers as he considers necessary any of his functions under this Act.

Maintenance of accounts.

12. (*1*) The Custodian shall maintain a separate account of the property of each evacuee of which he has taken possession under section 6 and shall cause to be made therein entries of all receipts and payments.

(*2*) The accounts shall be maintained in such form and manner as the Provincial Government may prescribe.

(*3*) The manager of any property shall maintain the accounts and records relating to the property in his charge, and shall submit such accounts to the Custodian at least once a month.

(*4*) The Provincial Government shall cause such accounts to be inspected and audited at such intervals and by such persons as it shall determine.

Fees.

13. (*1*) The Provincial Government may prescribe the fees payable to the Custodian for the management of the property of which he takes possession under section 6.

(*2*) Such fees shall be payable out of the income of the property and shall be a first charge on the property.

(*3*) The fees paid under sub-section (*1*) shall be credited to the Provincial Government.

Return of property.

14. (*1*) On being satisfied that evacuees have returned or are returning to the Province, the Provincial Government may, by notification in the *Official Gazette*, authorise return of their immovable property to the owners in accordance with this section and subject to such conditions and terms as may be specified in the notification.

(*2*) Any person claiming to be entitled to any such property may apply in writing to the Custodian, who shall, after giving public notice, hold a summary inquiry into the claim, and make a formal order declaring the person to whom the possession of the property may be delivered.

(*3*) The delivery of the property to the person named in such order shall absolve the Custodian of all responsibility and liability in respect of the property, but shall not prejudice any rights in respect of the property, which any other person may be entitled to by due process of law to enforce against the person to whom possession of the property is so delivered:

Provided that every lease validly granted by the Custodian shall have effect as against the owner until determined by lapse of time or operation of law.

(*4*) The Custodian shall deliver or cause to be delivered to the person named in the order referred to in sub-section (*2*) a statement containing an abstract of the account of the management of the property and, if any sum be due and outstanding to the Custodian in respect of the excess expenses or fees, a notice requiring that person to pay such sum with interest at the rate of six per centum per annum from the date of the notice ; and if the sum be not paid within the time specified in the notice it will be recoverable as provided in section 25.

(*5*) The Custodian may direct return of the moveable property in his possession to the owner at any time on such conditions and terms as he deems fit.

Powers of Custodian holding inquiry.

15. The Custodian while holding an inquiry under this Act shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely :— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath ;

(*b*) compelling the production of documents and material objects ;

(*c*) administering oaths ;

(*d*) in respect of such other matters as may be prescribed, and shall be deemed to be a court within the meaning of sections 480 and 482 of the Code of Criminal Procedure, 1898. V of 1898.

Power of Custodian to obtain information.

16. (*1*) The Custodian may by an order in writing require any person to furnish any information or produce any books, accounts or other documents possessed by such person relating to any property referred to in section 4 or otherwise necessary for carrying into effect the objects of this Act.

(*2*) Whoever fails to comply with a direction under sub-section (*1*) or submits information which is false or which he either knows or has reasonable cause to believe to be false or does not believe to be ture, shall, on conviction, be punished with imprisonment for a term which may extend to six months and shall also be liable to fine.

Other powers of Custodian.

17. (*1*) The Custodian may, if it appears to him to be necessary to do so to secure compliance with this Act or otherwise carry into effect the objects of this Act,—

(*a*) inspect or cause to be inspected any books, accounts or other documents ; and

(*b*) enter and search or authorise any person to enter and search any premises.

(*2*) Whoever obstructs the Custodian or any person acting under his direction in the exercise of the powers conferred under sub-section (*1*) shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

Penalty for failing to surrender possession of, or to vacate, property.

18. (*1*) Any person who fails to comply with an order to surrender possession of or to vacate any property made by the Custodian or any person authorised by him in this behalf shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine or with both.

(*2*) An offence under sub-section (*1*) shall be cognizable.

19. The Custodian and every person duly appointed by any authority to discharge any functions under this Act or the rules made thereunder shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Certain officers to be public servants.

XLV of 1860.

20. Except as provided in this Act, no order made in exercise of any power conferred by this Act shall be called in question in any Court. Orders not to be called in question.

21. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction of the Provincial Government or any officer authorised by it in this behalf by general or special order. Procedure.

22. Anything done or purported to have been done under this Act shall not be invalidated or affected by reason only that at a material time,— Saving.

(*a*) some person who or might have been interested in or over property and who was an evacuee had died or had ceased to be an evacuee, or

(*b*) some person who was so interested and who was believed by the Custodian to be an evacuee was not an evacuee.

23. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any such enactment. Effect of Acts, etc., inconsistent with other enactments.

24. No suit or prosecution or other legal proceedings shall lie against the Provincial Government or the Custodian or any person acting under the direction of the Provincial Government or the Custodian in respect of anything which is in good faith done or intended to be done in pursuance of this Act. Bar to legal proceedings.

25. Any arrear due from or sum payable by any person to the Custodian may on application to the Collector be realized as an arrear of land revenue. Recovery of arrears.

26. All records prepared or registers maintained under this Act shall be deemed to be public documents within the meaning of the Indian Evidence Act, 1872, and shall be presumed to be true until the contrary is proved. Records under Act to be public documents.

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27. (*1*) In any suit in which it appears to the Civil or Revenue Court that a question relating to the property of an evacuee is involved, the Court shall not proceed to determine that question until after notice has been given to the Custodian. Notice to Custodian.

(*2*) The Court may at any stage of the proceedings order that the Custodian shall be added as a defendant in any civil or revenue suit involving a question relating to the property of an evacuee, if the Custodian, whether upon receipt of notice under sub-section (*1*) or otherwise, applies for such addition and the Court is satisfied that such addition is necessary or desirable for the satisfactory determination of the question involved.

(*3*) In the application of this section to appeals the word "defendant" shall be construed to include a respondent and the word "suit" an appeal.

28. (*1*) The Provincial Government may, by notification in the *Official Gazette*, make such rules as appear to it to be necessary or expedient to carry into effect the provisions of this Act. Power to make rules.

(*2*) Without prejudice to the generality of the powers conferred by sub-section (*1*), the rules may provide for, or may empower any authority to make orders providing for all or any of the following matters, namely :—

(*a*) the forms of the applications and the manner of their presentation ;

(*b*) the forms of the notices to be issued, the orders to be made and the manner of their service and publication ;

(*c*) the manner in which appeals may be presented ;

(*d*) the procedure for holding summary inquiries and for the disposal of appeals ;

(*e*) the procedure governing the grant of leases or the sale of property by the Custodian and the periods for which leases may be granted ;

(*f*) the forms of and the manner in which accounts and records shall be maintained ;

(*g*) the classes of officers to be appointed by the Custodian, their remuneration, designations, powers and functions and the extent of their jurisdication ;

(*h*) the intervals at which, the manner in which and the authority by whom, the accounts and records maintained under this Act, shall be inspected and audited ;

(*i*) fees payable to the Custodian for management of the property ;

(*j*) any other matter which is to be or may be prescribed.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

THE BOMBAY PROHIBITION ACT, 1949.

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SCHEDULE II.

BOMBAY ACT No. XXV OF 1949.[1]

[THE BOMBAY PROHIBITION ACT, 1949.]

[*20th May 1949.*]

An Act to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition and also the Abkari law in the Province of Bombay.

WHEREAS it is expedient to amend and consolidate the law relating to the promotion and enforcement of and carrying into effect the policy of Prohibition; and whereas it is also necesary to amend and consolidate the Abkari law in the Province of Bombay for the said purpose and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be cited as the Bombay Prohibition Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, specify.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "authorization" means an authorization granted under section 45 for the use of liquor for sacramental purposes;

(*2*) "to bottle", with its various grammatical variations, means to transfer any article from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not; bottling includes re-bottling;

(*3*) "coasting steamer licence" means a licence granted under section 37;

(*4*) "Collector" means a Collector of land revenue or any person appointed to exercise all or any of the powers or to perform all or any of the duties of a Collector under this Act;

(*5*) "Commissioner" means an officer appointed as the Prohibition Commissioner under section 3;

(*6*) "committee" means any of the committees appointed by the Provincial Government under section 7;

(*7*) "common drinking house" means a place where the drinking of liquor or consumption of any intoxicating drug is allowed for the profit or gain of the person owning, occupying, using, keeping or having the care or management or control of such place whether by way of charge for the use of the place or for drinking facilities provided, or otherwise howsoever and includes the premises of a club or any other place which is habitually used for the purpose of drinking liquor or consuming any intoxicating drug by more than one person without a licence granted under this Act;

(*8*) "country liquor" includes all liquor produced or manufactured in India;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1948, Part V, page 655.

(*9*) "cultivation" includes the tending or protecting of a plant during growth and does not necessarily imply raising it from seed;

(*10*) "denatured" means subjected to a process prescribed for the purpose of rendering unfit for human consumption;

(*11*) "dining car licence" means a licence granted under section 37;

(*12*) "to drink", with its grammatical variations, means to drink liquor or to consume any intoxicating drug;

(*13*) "excisable article" means—

(*a*) any alcoholic liquor for human consumption,

(*b*) an intoxicating drug,

(*c*) opium,

(*d*) any medicinal or toilet preparation containing alcohol,

(*e*) other narcotic drugs, narcotics and non-narcotic drugs which the Provincial Government may, by notification in the *Official Gazette*, declare to be an excisable article;

(*14*) "excise duty" and "countervailing duty" mean such excise duty or countervailing duty, as the case may be, as is mentioned in Item 40 in List II in the Seventh Schedule to the Government of India Act, 1935;

(*15*) "excise revenue" means revenue derived or derivable from any duty, fee, tax, fine (other than a fine imposed by a court of law) or confiscation or forfeiture imposed or ordered under the provisions of this Act, or of any other law for the time being in force relating to intoxicants; 26 Geo 5, Ch. 2

(*16*) "export" (except in section 147) means to take out of the Province otherwise than across a customs frontier as defined by the Dominion Government;

(*17*) "foreign liquor" includes all liquor brought into India by sea, air or land:

Provided that the Provincial Government may, by notification in the *Official Gazette*, declare that any specified description of country liquor shall, for the purposes of this Act, be deemed to be foreign liquor;

(*18*) "hemp" means any variety of the Indian hemp plant from which intoxicating drugs can be produced;

(*19*) "hotel licence" means a licence granted under section 35;

(*20*) "import" (except in section 147) means to bring into the Province otherwise than across a customs frontier as defined by the Dominion Government;

(*21*) "interim permit" means a permit granted under section 47;

(*22*) "intoxicant" means any liquor, intoxicating drug, opium or any other substance which the Provincial Government may, by notification in the *Official Gazette*, declare to be an intoxicant;

(*23*) "intoxicating drug" means—

(*a*) the leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (Cannabis Sativa L.) including all forms known as *bhang, sidhi or ganja;*

(*b*) charas, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing and transport;

(*c*) any mixture, with or without neutral materials of any of the above forms of intoxicating drug, or any drink prepared therefrom; and

(*d*) any other intoxicating or narcotic drug or substance which the Provincial Government may, by notification in the *Official Gazette*, declare to be an intoxicating drug, such drug or substance not being opium, coca leaf, or a manufactured drug, as defined in section 2 of the Dangerous Drugs Act, 1930: II of 1930.

Provided that the Provincial Government may, by notification in the *Official Gazette*, declare that any other intoxicating or narcotic substance together with

every preparation and admixture of the same shall be deemed to be an intoxicating drug for the purposes of this Act;

(*24*) "liquor" includes—

(*a*) spirits of wine, methylated spirits, wine, beer, toddy and all liquids consisting of or containing alcohol; and

(*b*) any other intoxicating substance which the Provincial Government may, by notification in the *Official Gazette*, declare to be liquor for the purposes of this Act;

(*25*) "manufacture" includes—

(*a*) every process whether natural or artificial by which any liquor or intoxicating drug is produced, prepared or blended and also redistillation and every process for the rectification of liquor, but does not include flavouring, blending or colouring of liquor or intoxicating drug lawfully possessed for private consumption; and

(*b*) every process of producing and drawing of toddy from trees;

(*26*) "Medical Board" means a board constituted under section 8;

(*27*) "mhowra flower" does not include the berry or seed of the mhowra tree;

(*28*) "molasses" means the heavy, dark coloured residual syrup drained away in the final stage of the manufacture of gur or sugar containing, in solution or suspension, sugars which can be fermented, and includes any product formed by the addition to such syrup of any ingredient which does not substantially alter the character of such syrup; but does not include any article which the Provincial Government may, by notification in the *Official Gazette*, declare not to be molasses, for the purposes of this Act;

(*29*) "Officer in charge of a Police Station" includes—

Bom. IV of 1902. V of 1898.

(*a*) in the Greater Bombay, the officer in charge of a police section as provided under the provisions of the City of Bombay Police Act, 1902, and

(*b*) elsewhere, the officer in charge of a police station as defined in the Code of Criminal Procedure, 1898;

(*30*) "opium" means—

(*a*) the capsules of the poppy (Papaver Somniforum L.);

(*b*) the spontaneously coagulated juice of such capsules which has not been submitted to any manipulations other than those necessary for packing and transport; and

(*c*) any mixture with or without neutral materials of any of the above forms of opium;

but does not include any preparations containing not more than 0·2 per cent. of morphine, or a manufactured drug as defined in section 2 of the Dangerous Drugs Act, 1930;

II of 1930.

(*31*) "passenger ship licence" means a licence granted under section 38;

(*32*) "permit" means a permit granted under section 40, 41, 46 or 47 and the expression "permit holder" shall be construed accordingly;

(*33*) "police station" means in the Greater Bombay a police section as provided under the provisions of the City of Bombay Police Act, 1902, and elsewhere any place declared to be a police station for the purposes of the Code of Criminal Procedure, 1898;

Bom. IV of 1902. V of 1898.

(*34*) "prescribed" means prescribed by the rules, orders or regulations under this Act;

(*35*) "Prohibition officer" includes the Commissioner, Collector or any officer or person appointed to exercise any of the powers or to perform any of the duties and functions under the provisions of this Act and also includes any member of a committee or the Medical Board;

(*36*) "Province" means the Province of Bombay including the space within the limits of its territorial waters;

(*37*) "rectification" includes every process whereby spirits are purified or are coloured or flavoured by mixing any material therewith;

(*38*) "Registered Medical Officer" means—

(*a*) a medical practitioner registered under the Bombay Medical Act, 1912, or Bom. VI of 1912.

(*b*) a medical practitioner registered or entered on the list under the Bombay Medical Practitioners' Act, 1938; Bom. XXVI of 1938.

(*39*) "regulations" means regulations made under this Act;

(*40*) "rules" means rules made under this Act;

(*41*) "sell" with its grammatical variations includes—

(*a*) any transfer whether such transfer is for any consideration or not,

(*b*) any supply or distribution for mutual accommodation, and

(*c*) any supply by a club to its members on payment of price or of any fees or subscription; but does not include selling of opium for export across the customs frontier as defined by the Dominion Government;

The word "buy" with its grammatical variations shall be construed accordingly;

(*42*) "special import licence" means a licence granted under section 36;

(*43*) "spirit" means any liquor containing alcohol and obtained by distillation (whether it is denatured or not);

(*44*) "sweet toddy or nira or neera" means unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree into receptacles treated in the prescribed manner so as to prevent fermentation;

(*45*) "territorial waters" with reference to the Province means any part of the open sea within one marine league of the coast measured from the low water mark;

(*46*) "toddy" means fermented or unfermented juice drawn from a cocoanut, brab, date or any kind of palm tree and includes sweet toddy or nira or neera;

(*47*) "to tap" means to prepare any part of a tree, or to use any means, for the purpose of causing juice to exude from the tree;

(*48*) "trade and import licence" means a licence granted under section 33;

(*49*) "transport" means to move from one place to another within the Province;

(*50*) "vendor's licence" means a licence granted under section 34;

(*51*) "visitor's permit" means a permit granted under section 46.

CHAPTER II.

ESTABLISHMENT.

Prohibition Commissioner

3. The Provincial Government may, by notification in the *Official Gazette*, appoint an officer to be called the Prohibition Commissioner, who, subject to the control of the Provincial Government and subject to such general or special orders as the Provincial Government may from time to time make, shall exercise such powers and shall perform such duties and such functions as are conferred upon, by or under the provisions of this Act and shall superintend the administration and carry out generally the provisions of this Act:

Provided that the person appointed as and holding office of the Commissioner of Excise for the Province of Bombay immediately before the date on which this Act comes into force shall be the Prohibition Commissioner and shall hold the office of the Prohibition Commissioner until the Provincial Government directs otherwise.

Bom. V of 1879.

4. (*1*) The Collectors shall, within the limits of their jurisdiction for which they are appointed as Collectors under the Bombay Land Revenue Code, 1879, exercise such powers and perform such duties and functions as are provided by or under the provisions of this Act. Collectors.

(*2*) For the purposes of this Act all Collectors including the Collector of Bombay shall be subordinate to the Commissioner.

(*3*) The Provincial Government may, by notification in the *Official Gazette*, appoint any person other than the Collector of land revenue to exercise in any district or place all the powers and perform all the duties and functions as are assigned by or under this Act to a Collector subject to such control, if any, in addition to that of the Commissioner and of the Provincial Government, as the Provincial Government may from time to time direct.

5. To aid the Commissioner and the Collectors in carrying out the provisions of this Act, the Provincial Government may appoint such subordinate officers, with such designations and assign to them such powers, duties and functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Subordinate officers.

6. (*1*) The Provincial Government may invest any officer of the Police department or any officer of any other department either personally or in right of his office with such powers, impose upon him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary and any such officer shall, thereupon, exercise the said powers, discharge the said duties and perform the said functions in addition to the powers, duties and functions incidental to his principal office. Investing officers of other departments with powers and duties under this Act.

(*2*) The Provincial Government may also invest any person working in an honorary capacity or otherwise with such powers, impose on him such duties and direct him to perform such functions under this Act, rules or regulations or orders made thereunder, as may be deemed necessary. Such persons may be given such designations as the Provincial Government may deem fit.

7. (*1*) The Provincial Government may appoint committees to advise and assist officers in carrying out the provisions of this Act. Committees.

(*2*) Such committees shall perform such functions as are provided by or under the provisions of this Act.

(*3*) The constitution of such committees and the procedure regarding their work shall be as may be prescribed.

(*4*) The Provincial Government may direct that the members of such committees shall be paid such fees and allowances as may be prescribed.

8. (*1*) The Provincial Government may constitute one or more medical boards for such areas and consisting of such members as it may deem fit. Medical boards.

(*2*) A medical board so constituted shall perform such functions as are provided by or under this Act.

(*3*) The procedure regarding the work of the medical board shall be as may be prescribed.

(*4*) The members of the medical board shall be entitled to such fees and allowances as may be prescribed.

9. In exercise of their powers and in discharge of their duties and functions under the provisions of this Act or rules, regulations or orders made thereunder, all Prohibition Officers and all officers including the officers of the Police and other departments shall, subject to the general or special orders of the Provincial Government be subordinate to and under the control of the Commissioner and Control of Commissioner over Prohibition Officers and other officers,

shall be bound to follow such orders as the Commissioner may, from time to time, make.

Delegation.

10. (*1*) The Provincial Government may delegate any of the powers exercisable by it under this Act to the Commissioners or such other officer as it deems fit.

(*2*) Subject to the control and direction of the Provincial Government the powers conferred on the Commissioner or any other officer appointed or invested with powers under, this Act may be delegated by him to any of his subordinates.

CHAPTER III.

PROHIBITIONS.

Manufacture etc. of intoxicant to be permitted in accordance with provisions of Act, rules, etc.

11. Notwithstanding anything contained in the following provisions of this Chapter, it shall be lawful to import, export, transport, manufacture, sell, buy, possess, use or consume any intoxicant or hemp or to tap any toddy producing tree or permit such tree to be tapped or to draw toddy from such tree or permit toddy to be drawn therefrom in the manner and to the extent provided by the provisions of this Act, any rules, regulations or orders made or in accordance with the terms and conditions of a licence, permit, pass or authorization granted thereunder.

Prohibition of manufacture of liquor and construction and working of distillery or brewery.

12. No person shall—

(*a*) manufacture iquor ;
(*b*) construct o rwork any distillery or brewery ;
(*c*) import, export, transport or possess liquor ; or
(*d*) sell or buy liquor.

Prohibition of sale, etc. of liquor.

13. No person shall—

(*a*) bottle any liquor for sale ;
(*b*) consume or use liquor ; or
(*c*) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any liquor.

Prohibition of export import, transport, sale, manufacture, etc., of intoxicating drugs.

14. No person shall—

(*a*) export, import, transport, or possess any intoxicating drug ;
(*b*) cultivate or collect the hemp or extract any portion of such plant from which any intoxicating drug can be manufactured ;
(*c*) use, keep or have in his possession any materials, still, utensils, implements or apparatus whatsoever for the manufacture of any intoxicating drug ;
(*d*) sell or buy any intoxicating drug ;
(*e*) consume or use any intoxicating drug ; or
(*f*) manufacture any intoxicating drug.

Prohibition of import, export, transport, sale, etc., of sweet toddy.

15. No person shall—

(*a*) import, export, transport, or possess sweet toddy or nira ;
(*b*) bottle sweet toddy or nira for sale ; or
(*c*) sell or buy sweet toddy or nira.

16. No person shall—

(*a*) tap any toddy producing tree or permit to be tapped any toddy producing tree belonging to him or in his possession ; or

(*b*) draw toddy from any tree or permit toddy to be drawn from any tree belonging to him or in his possession.

Prohibition of tapping of toddy producing trees and drawing of toddy.

17. No person shall—

(*a*) possess opium ;

(*b*) transport opium ;

(*c*) import or export opium ;

(*d*) sell or buy opium ; or

(*e*) consume or use opium.

Prohibition of possession, etc. of opium.

18. No licensed vendor and no person in the employ of such licensed vendor or acting with the express or implied permission of such licensed vendor on his behalf shall sell or deliver any intoxicant to any person apparently under the age of twenty-one years, whether for consumption by such person or by other person and whether for consumption on or off the premises of such licensed vendor.

Prohibition of sale to children.

19. No owner of any toddy producing tree, and no person having a right to the juice of such tree, and no drawer of toddy, shall sell toddy and no person transporting or removing toddy under a pass granted under this Act shall sell the same except—

(*a*) under a licence granted under this Act, or

(*b*) to a person licensed to manufacture or sell liquor under this Act.

Prohibition of sale of toddy.

20. No person shall—

(*a*) produce,
(*b*) manufacture,
(*c*) possess,
(*d*) export,
(*e*) import,
(*f*) transport,
(*g*) buy,
(*h*) sell,
(*i*) consume, or
(*j*) use

charas.

Prohibition of production, etc., of charas.

21. No person shall—

(*a*) alter or attempt to alter any denatured spirit by dilution with water or by any method whatsoever, with the intention that such spirit may be used for human consumption, whether as a beverage or internally as a medicine or in any other way whatsoever, or

(*b*) have in his possession any denatured spirit in respect of which he knows or has reason to believe that such alteration or attempt has been made.

Alteration of denatured spirit.

22. No person shall—

(*a*) open or keep or use any place as a common drinking house ; or

(*b*) have the care, management or control of, or in any manner assist in conducting the business of, any place opened, or kept or used as a common drinking house.

Prohibition of allowing any premises to be used as common drinking house.

23. No person shall—

(*a*) commend, solicit the use of, offer any intoxicant or hemp, or

(*b*) incite or encourage any member of the public or any class of individuals or the public generally to commit any act which frustrates or defeats the provisions of this Act, or any rule, regulation or order made thereunder, or

(*c*) do any act which is calculated to incite or encourage any member of the public or a class of individuals or the public generally to commit any offence under this Act or to commit a breach of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

Prohibition of commending or soliciting use of intoxicant or hemp or inciting any individual of public to do any act.

Prohibition of publication of advertisements relating to intoxicant, etc.

24. (*1*) No person shall print or publish in any newspaper, news-sheet, book, leaflet, booklet or any other single or periodical publication or otherwise display or distribute any advertisement or other matter,—

(*a*) which commends, solicits the use of or offers any intoxicant or hemp

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder or the conditions of any licence, permit, pass or authorization granted thereunder.

(*2*) Save as otherwise provided in sub-section (*3*), nothing in this section shall apply to :

(*a*) catalogues or price lists which may be generally or specially approved by the Commissioner in this behalf;

(*b*) any advertisement or other matter contained in any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the Province;

(*c*) any advertisement or other matter contained in any newspaper printed and published in the Province before such date as the Provincial Government may, by notification in the *Official Gazette*, specify; and

(*d*) any other advertisement or matter which the Provincial Government may, by notification in the *Official Gazette*, generally or specially exempt from the operation of this section.

(*3*) Notwithstanding anything contained in sub-section (*2*), the Provincial Government may, by notification in the *Official Gazette*, prohibit within the Province the circulation, distribution or sale of any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the Province which contains any advertisement or matter,—

(*a*) which commends, solicits the use of or offers any intoxicant or hemp, or

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder.

CHAPTER IV.

CONTROL, REGULATION AND EXEMPTIONS

Exemption of preparations.

25. The Provincial Government may, by notification in the *Official Gazette*, direct that any preparation containing alcohol not exceeding a specified percentage by volume shall be exempt from any of the provisions of this Act or rules, regulations or orders made thereunder.

Distilleries and warehouses for intoxicants

26. The Commissioner may—

(*a*) establish a distillery in which spirit may be manufactured in accordance with a licence issued under this Act on such conditions as the Provincial Government deems fit to impose;

(*b*) discontinue any distillery established;

(*c*) licence, on such conditions as the Provincial Government deems fit to impose, the construction and working of a distillery or brewery;

(*d*) establish or licence a warehouse wherein any liquor, intoxicating drug, hemp, mhowra flowers or molasses may be deposited and kept without payment of duty; and

(*e*) discontinue any warehouse so established.

27. No liquor, intoxicating drug, hemp, mhowra flowers or molasses shall be removed from any distillery, warehouse or other place of storage established or licensed under this Act, except under a pass and unless the duty, if any imposed under the provisions of this Act, has been paid or a bond has been executed for the payment thereof. Intoxicating drug or hemp not to be removed from warehouse, etc.

28. (*1*) The Provincial Government may, by general or special order, authorize a Collector or any other officer to grant passes for the import, export or transport of any liquor, intoxicating drug or hemp. Passes for import, etc.

(*2*) Such passes may be either general for definite periods of time and definite kinds of liquor, intoxicating drug or hemp or special for specified occasions and particular consignments only.

(*3*) Every such pass shall specify—

(*a*) the name of the person authorized to import, export or transport liquor, intoxicationg drug or hemp;

(*b*) the period for which the pass is to be in force;

(*c*) the quantity and description of liquor, intoxicating drug or hemp for which it is granted; and

(*d*) the places from and to which liquor, intoxicating drug or hemp are to be imported, exported or transported and in the case of places more than ten miles apart, the route by which they are to be conveyed.

29. The through transport of any consignment of any intoxicant, hemp, mhowra flowers or molasses by a railway administration or by any steamer, ferry, road transport or air service shall be under such passes and subject to such conditions as may be prescribed. Passes for through consignments.

30. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences for the possession of denatured spirit, rectified spirit and alcohol for industrial or medical purposes, if such spirit or alcohol is, in the opinion of the officer granting the licence, necessary for the scientific, industrial, medical or similar purpose: Licence for possession of denatured or rectified spirit and alcohol for industrial or medical purposes.

Provided that no licence shall be necessary for the possession of denatured spirit to the extent of such quantity as may be prescribed.

31. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to any person or in respect of any institution whether under the management of Government or not for the manufacture, export, import, transport, sale or possession of liquor, an intoxicating drug or hemp or any article containing liquor, intoxicating drug or hemp on the ground that such article is required by such person or in respect of such institution for a *bona fide* medicinal scientific, industrial or such like purpose: Licences for *bona fide* medicinal or other purposes.

Provided that when any liquor, intoxicating drug, sweet toddy or article containing such liquor, drug or hemp has been obtained by any person for a *bona fide* medicinal scientific or industrial or like purpose from any person or institution licensed to sell the same under this section, it shall not be necessary for such person to obtain a licence for the possession of the same.

Licences for tapping for toddy.

32. The Provincial Government may authorize an officer by rules or an order in writing to grant licences for the tapping of palmyra or date palm trees for juice intended to be used for the manufacture of gur or any other article which is not an intoxicant.

Trade and import licences.

33. The Provincial Government may, by rules or an order in writing, authorize an officer to grant trade and import licences to persons intending to import and to sell by wholesale any liquor, intoxicating drug or hemp.

Vendor's licence.

34. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant a vendor's licence.

(*2*) A vendor's licence shall be granted on the following conditions :—

(*i*) the stock of foreign liquor with the licensee (except what is permitted for disposal in the shop) shall be kept by him at a warehouse approved by Government;

(*ii*) the licensee shall be allowed to select his own warehouse, and fix its rent with the owner:

Provided that on his failure to select such a warehouse, the warehouse shall be selected by the Provincial Government;

(*iii*) the licensee shall pay all rent, costs, charges and expenses incidental to warehousing and supervision;

(*iv*) the licensee may sell part of the stock to foreign liquor licensees in the Province or to any persons outside the Province, subject to such conditions as the Commissioner may prescribe;

(*v*) the licensee shall be permitted to sell only to holders of permits or authorizations and chemists, messes and clubs holding licences;

(*vi*) the licensee shall be entitled to keep in his shop such quantity of liquor as may be required by him from time to time for retail sale;

(*vii*) the licensee shall keep accounts and shall dispose of the goods according to such instructions as may be given by the Commissioner or any officer authorized in this behalf by the Commissioner.

Hotel licences.

35. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to the managers of hotels to sell foreign liquor to the holders of permits granted under this Act :

Provided that the Provincial Government is satisfied that such hotel has ordinarily a sufficient number of boarders eligible to hold permits.

(*2*) Such licences shall be issued on the following conditions :—

(*i*) liquor shall be sold in sealed bottles to the permit holders residing at the hotel,

(*ii*) consumption of liquor sold shall not be allowed in any of the rooms of the hotel to which any member of the public has access,

(*iii*) the holders of hotel licences shall pay the expenses of any officer of the excise establishment, if any, required for the grant and control of permits on the premises.

Special import licences to hotels.

36. The Provincial Government may, by rules or an order in writing, authorize an officer to grant special import licences to managers of hotels for the purpose of importing foreign liquor for use in the hotel.

Dining cars and coasting steamers licences.

37. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to sell foreign liquor to the managers of dining cars on railways and Captains of coasting steamers on such conditions as may be prescribed

38. The Provincial Government may, by rules or an order in writing, authorize an officer to grant licences to any shipping company for each ship to sell foreign liquor on condition that such liquor shall be sold only to *bona fide* passengers on such ship. Licences to shipping companies.

39. The Provincial Government may, on such conditions as may be specified in the notification published in the *Official Gazette*, permit the use or consumption of foreign liquor on cargo boats, warships and troopships and in military and naval messes and canteens. Permission to use or consume foreign liquor, on cargo boats warships, troopships and in military and naval messes and canteens.

40. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant permits for the use or consumption of foreign liquor to persons on the following conditions :— Permits.

(*a*) that such person is not a minor ;

(*b*) that the health of such person shall be seriously and permanently affected if such person is not permitted to use or consume such liquor ; or

(*c*) (*i*) that such person was either born and brought up or domiciled in any country outside India where such liquor is being generally used or consumed ; or

XVI of 1939. (*ii*) that such person is on the Register of Foreigners under the Registration of Foreigners Act, 1939, and is not domiciled in the Dominion of India :

Provided that, in the case of any person falling under sub-clause (*i*) or (*ii*)—

(*a1*) such person has been residing and intends to reside in India temporarily and that such person has a fixed and settled purpose of making his sole and permanent home in any country outside India ; and

(*b1*) that such person has been ordinarily using or consuming such liquor.

(*2*) Such permits may be granted by the Commissioner or the officer authorized or the committee appointed for the purpose.

(*3*) Such permits shall be granted for such quantities as may be prescribed.

Explanation.—For the purpose of clause (*c*) of sub-section (*1*), a person shall be deemed to be residing or intending to reside in India temporarily, if the period of his residence does not exceed six months.

41. The Provincial Government may grant special permits for the use or consumption of foreign liquor to sovereigns of foreign states or an ambassador or a diplomatic envoy or consul of a foreign state or the consort or any member of the staff entitled to diplomatic privileges, of such sovereign, ambassador, envoy or consul. Special permits to foreign sovereigns, etc.

42. Permits granted under section 40 or 41 shall be non-transferable. Permits to be non-transferable.

43. No holder of a permit granted under section 40 or 41 shall allow the use or consumption of any part of the stock held by him under the permit to any person who is not the holder of such a permit. No holder of a permit shall drink in a public place, or in the rooms of a hotel or institution to which the public may have access. Permit holder not to allow use or consumption by non-permit holder.

Licence clubs.

44. (*1*) The Provincial Government may, by rules or an order in writing, authorize or grant licences to a club approved by the Provincial Government in this behalf to sell foreign liquor.

(*2*) Such licences shall be granted on the following conditions :—

(*a*) that the number of the resident members of the club does not exceed the maximum number of resident membership of such club during the three years immediately before the commencement of this Act :

Provided that the Commissioner in Greater Bombay and the Collector elsewhere may, subject to the general or special orders of the Provincial Government, permit such maximum number of resident members to be exceeded in the case of any particular club ;

(*b*) that no liquor shall be served to the holder of any permit in any room of the club to which the public have access at the time when any person who does not hold such permit is present ;

(*c*) that the club when authorized by any member who is the holder of a permit may stock the permitted quantity of liquor on account of such member ; and

(*d*) that liquor stocked on behalf of a member who is the holder of a permit may be served to any person who is the holder of a permit.

Explanation.—For the purposes of this section a resident member of a club shall mean a member who ordinarily resides in the case of a club situated in Greater Bombay within the limits of the said area and elsewhere within the limits of a local authority in which the club is situated.

Authorization for sacramental purposes.

45. (*1*) The Provincial Government may, by rules or an order in writing, authorize an officer to grant any authorization to any person for the use of liquor for sacramental purposes :

Provided that the officer so authorized is satisfied that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs.

(*2*) An authorization under this section shall be granted on the recommendation of the person who consistently with the religious tenets of the community to which the persons applying for the authorization belongs exercises control over sacramental matters relating to such community and has been approved by the Provincial Government in that behalf.

(*3*) If in any community there is no person who exercises control over sacramenta matters relating to such community and if in the opinion of the Provincial Government it is so desirable, the authorization under this section may be granted on the recommendation of such member of the community as may be approved by the Provincial Government in this behalf.

(*4*) If any dispute arises whether the use of liquor is required by any person for sacramental purpose, the person requiring such use may apply to the Commissioner. The Commissioner after holding a summary inquiry in the prescribed manner shall decide whether or not the liquor is required by the person for sacramental purposes.

(*5*) The decision of the Commissioner under sub-section (*4*) shall be final.

Visitors' permits.

46. (*1*) The Provincial Government may, by rules or an order in writing authorize an officer to grant visitors' permits to consume, use and buy foreign liquor to persons who visit the Province for a peroid not more than a week.

(*2*) Such permits shall not be granted for a period exceeding one week, provided that the officer granting the permit may extend the period of such permit for the total period not exceeding one month.

(*3*) Such permit shall be available at such places as may be notified by the Commissioner in this behalf.

47. (*1*) Notwithstanding anything contained in sections 40 and 41, the Provincial Government may, by rules or an order in writing, grant interim permits to persons applying for permits under any of the said provisions. Interim permits.

(*2*) Such interim permits shall not be granted for any period exceeding two months.

48. (*1*) The Provincial Government may by rules or an order in writing authorize an officer to grant licences for the sale of hemp drugs in such quantities as may be prescribed. Licence for use of hemp drugs.

(*2*) Such licences shall be granted on the certificate of the Medical Board.

49. The Provincial Government may from time to time make rules or pass orders to permit absolutely or subject to any conditions or the payment of duty and to regulate within the whole of the Province or any local area all or any of the following matters :— Power to make rules or pass orders for possession, etc., of opium.

(*a*) the possession of opium,

(*b*) the use or consumption of opium,

(*c*) the transport of opium,

(*d*) the import or export of opium,

(*e*) the sale or buying of opium,

(*f*) the safe custody of opium warehoused, the levying of fees for warehousing opium and the removal of warehoused opium for sale.

50. (*1*) The Provincial Government or any officer authorized in this behalf may declare any place to be a warehouse for opium intended to be sold or exported therefrom. So long as the declaration remains in force, the owner of such article shall be bound to deposit it in that warehouse. Warehousing of opium.

(*2*) No opium shall be removed from any warehouse declared under sub-section (*1*), except under a pass and unless the duty, if any, imposed under the provisions of this Act has been paid or a bond has been executed for the payment thereof.

51. The Provincial Government may, by rules made in this behalf, regulate the sale, custody or removal of warehoused intoxicants or hemp. Rules for sale, etc., of warehoused intoxicant or hemp.

52. Notwithstanding anything in this Act, it shall be lawful for any officer authorized by the Provincial Government in this behalf to grant any licences, passes or permits for the import, export, transport, possession, sale, buying, cultivation, collection, manufacture, consumption and use of any intoxicant, hemp or mhowra flowers or molasses or for the tapping of any toddy producing tree or the drawing of toddy from such tree in cases other than those specifically provided under any of the provisions of this Act. Power of authorized officer to grant licences, permits and passes in certain cases.

53. All licences, permits passes, or authorizations granted under this Act shall be in such form and shall, in addition to or in variation or substitution of any of the conditions provided by this Act, be subject to such conditions as may be prescribed and shall be granted on payment of the prescribed fee ; General conditions regarding licences, etc.

Provided that every licence, permit, pass or authorization shall be granted only on the condition that the holder thereof undertakes, and in the opinion of the officer authorized to grant the licence, permit, pass or authorization is likely to abide by

all the conditions of the licence, permit, pass or authorization and the provisions of this Act and not to do anything which would have the effect of directly or indirectly defeating or frustrating the object and purposes of this Act.

Power to cancel or suspend licences and permits.

54. (*1*) The Commissioner or any officer authorized in this behalf may cancel or suspend any licence, permit, pass or authorization granted under this Act,

(*a*) if any fee or duty payable by the holder thereof is not duly paid ;

(*b*) if the purpose for which the licence, permit, pass or authorisation was granted ceases to exist :

(*c*) in the event of any breach by the holder of such licence, permit, pass or authorization or by his servant or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit, pass or authorization or of any licence, permit, pass or authorization previously held by the holder ;

(*d*) if the holder thereof or any person in the employ of such holder or any person acting with his express or implied permission on his behalf is convicted of any offence under this Act or if the holder of the licence, permit, pass or authorization is convicted of any cognizable and non-bailable offence or of any offence under the Dangerous Drugs Act, 1930 or under the Indian Merchandise Marks Act, 1889, or of any offence punishable under sections 482 to 489 (both inclusive) of the Indian Penal Code, or of any offence punishable under Article 8 of the Schedule to section 167 of the Sea Customs Act, 1878.

II of 1930. IV of 1889. XLV of 1860. VIII of 1878.

(*2*) Where a licence, permit, pass or authorization held by any person is cancelled under sub-section (*1*), the authority aforesaid may cancel any other licence, permit, pass or authorization granted or deemed to have been granted to such person under this Act.

(*3*) Notwithstanding anything contained in the foregoing sub-sections, the Provincial Government may cancel or suspend any licence, permit, pass or authorization without assigning any reason.

Holder of licences, etc., not entitled to compensation or refund of fee for cancellation or suspension thereof.

55. No holder of a licence, permit, pass or authorization shall be entitled to any compensation for the cancellation or suspension of the licence, permit, pass or authorization under section 54 nor to a refund of any fee or deposit made in respect thereof.

Cancellation for other reasons.

56. (*1*) Whenever the authority granting a licence considers that it should be cancelled for any cause other than those specified in section 54, he may cancel the licence either—

(*a*) on the expiration of not less than fifteen days' notice in writing of his intention to do so ; or

(*b*) forthwith without notice after recording his reasons in writing for doing so.

(*2*) When a licence is cancelled under clause (*a*) of sub-section (*1*), any fee paid in advance or deposit made by the licensee in respect thereof shall be refunded to him, less the amount, if any, due to the Provincial Government. When a licence is cancelled under clause (*b*) of sub-section (*1*), the licensee shall not be entitled to the refund of any fee paid in advance or deposit made by the licensee in respect of the licence.

57. Notwithstanding anything contained in any other section, when a licence is liable under that section to cancellation owing to default in the payment of any duty or fee payable by the holder thereof, the authority granting the licence may attach and take such licence under management, and if the profits received from such management after meeting all the expenses of such attachment and management are less than the amount of the arrears for which the licence was attached and the amount falling due on such licence during the remaining period of such licence, the difference shall be recovered from the licensee as if it were a duty or fee leviable under any one of the provisions of this Act, and in the event of the said profits exceeding the amount so due under the licence, the licensee shall not be entitled to receive any of the said profits. Attachment of licence.

58. Notwithstanding anything contained in any law for the time being in force, no right, title or interest in any licence, permit, pass or authorization granted under this Act shall be liable to be sold, transferred or attached in execution of any process of any civil or any other court. Right, title or interest under licence not liable to be sold or attached in execution.

59. (*1*) Notwithstanding the fact that the period during which any licence, permit, pass or authorization is to be in force has not expired, the Commissioner may direct the holder thereof to dispose of his stock of intoxicant or hemp or mhowra flowers before such date as may be specified in the order. Commissioner entitled to require licence holder to dispose of stocks.

(*2*) Any stock of intoxicant, hemp or mhowra flowers left undisposed of after the date so specified shall, together with receptacles or packages in which it is contained, be liable to forfeiture to His Majesty by the order of the Commissioner. On the cancellation or the expiry of the period of any licence, permit, pass or authorization, the Commissioner may also direct that any stock of any intoxicant, hemp or mhowra flowers remaining with the holder of the licence, permit, pass or authorization together with receptacles or packages thereof be forfeited to His Majesty.

(*3*) If the articles which are forfeited under sub-section (*2*) are sold, the Commissioner may, if he thinks fit, order the whole or any portion of the sale proceeds of such articles to be paid to the owner thereof.

CHAPTER V.

MHOWRA FLOWERS.

60. (*1*) No person shall export or import mhowra flowers except under a pass granted by the Collector or an officer authorized in this behalf. Prohibition of export or import of mhowra flowers.

(*2*) No person shall collect or transport or sell or buy or have in this possession mhowra flowers exceeding the prescribed limit in weight, except under the authority and subject to the conditions of a licence, permit or pass granted in this behalf: Control and regulation of transport, sale, etc., of mhowra flowers.

Provided that no licence, permit or pass shall be necessary for the collection, transport, sale, purchase or possession within such area and during such period (hereinafter called vacation period) as the Provincial Government may, be notification in the *Official Gazette*, notify, of any quantity of mhowra flowers which shall be the produce of that year:

Provided further that unless the Provincial Government, by a notification in the *Official Gazette*, otherwise directs, no licence, permit or pass shall be necessary for the transport by rail of any quantity of mhowra flowers through an area which has

no vacation period or the vacation period for which has expired at the time when the transport takes place, provided that—

(*i*) the said flowers are not unloaded in transit, and

(*ii*) there is a vacation period at the place from which and to which the said flowers are transported at the time when the said flowers are despatched or arrive, as the case may be.

CHAPTER VI.

CONTROL AND REGULATION OF MOLASSES.

Control of export, etc., of molasses.

61. (*1*) Except as otherwise provided in sub-sections (*2*) and (*3*), no person shall export, import, transport, sell or have in his possession any quantity of molasses.

(*2*) The Provincial Government may, by general or special order, authorize any Collector to grant licences for the import, export, sale or possession of molasses.

(*3*) The Provincial Government may also authorize any Collector or any other officer to grant permits for the transprt of molasses.

Provisions of sections 53 to 59 to apply to licences granted under section 61.

62. The provisions of sections 53 to 59 shall, so far as may be applicable, apply to licences or permits granted under section 61.

Control of price of molasses.

63. The Provincial Government may, by notification in the *Official Gazette*, fix for any area the price exceeding which molasses shall not be sold. Such price shall be in accordance with the grades of different qualities of molasses. The decisoin of the Provincial Government regarding the gradation and the amount of the maximum price shall be final.

Power of Provincial Government to direct holder of stock of molasses to sell them at fixed price to any officer, person or class of persons.

64. (*1*) The Provincial Government may direct any holder of any stocks of molasses to sell them at the price fixed under section 63 to any officer authorized in this behalf or to any person or a class of persons.

(*2*) If the holder refuses to comply with the direction made under sub-section (*1*) the officer authorized may take possession of the quantity of molasses directed to be sold and may pay or cause to be paid to the holder or deposit or cause to be deposited with the Collector the amount or the price thereof.

(*3*) The holder who refuses to comply with the direction made under sub-section (*1*) shall also, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

CHAPTER VII.

OFFENCES AND PENALTIES.

Penalty for illegal import, etc., of intoxicant or hemp.

65. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence, pass, permit or authorization granted, thereunder—

(*a*) imports or exports any intoxicant or hemp,

(*b*) manufactures any intoxicant,

(*c*) constructs or works any distillery or brewery,

(*d*) bottles liquor,

(*e*) sells or buys any intoxicant or hemp, or

(*f*) uses, keeps or has in his possession any materials, still, utensils, implements or apparatus for the purpose of manufacturing any intoxicant (other than toddy),

shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, uch imprisonment shall not be less than nine months and fine shall not be lesss than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for illegal cultivation and collection of hemp and other matters

66. Whoever in contravention of the provisions of this Act, or of any rule, regulation or order made, or of any licence, permit, pass or authorization issued, thereunder—

(*a*) cultivates or collects hemp,

(*b*) consumes, uses, possesses or transports any intoxicant or hemp,

(*c*) taps or permits to be tapped any toddy producing tree,

(*d*) draws or permits to be drawn toddy from any tree, shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third or subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees.

Penalty for alteration or attempting to alter denatured spirit.

67. Whoever in contravention of section 21 alters or attempts to alter any denatured spirit or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

Penalty for opening, etc., of common drinking house.

68. Whoever—

(*a*) opens, keeps or uses any place as a common drinking house ; or

(*b*) has the care, management or control of, or in any manner assists in conducting the business of any place opened, kept or used as a common drinking house,—shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees.

Penalty for illegal import, etc., of mhowra flowers.

69. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or licence, permit or pass granted thereunder, imports, exports, transports, sells or has in his possession mhowra flowers shall, on conviction, be punished,—

(*i*) for a first offence, with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees;

(*ii*) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than six months and fine shall not be less than one thousand rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than nine months and fine shall not be less than one thousand rupees :

Provided further that no person shall be punished in respect of any mhowra flowers which are either growing on a tree or are lying uncollected on the ground as they have fallen from a tree.

70. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made or of any licence or permit granted thereunder, exports, imports, transports, sells or has in his possession molasses shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both. Penalty for illegal import, etc., of molasses.

71. Whoever sells molasses at a price exceeding that fixed under section 63 shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees. Penalty for selling molasses at price exceeding fixed price.

72. Whoever in contravention of the provisions of this Act or any rule, regulation or order made thereunder, omits to warehouse opium or removes or does any act in respect of the warehoused opium, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both. Penalty for failure, etc., of warehousing opium.

73. Whoever, in contravention of the provisions of this Act, or of any rule, regulation or order made thereunder, prints or publishes in any newspaper, news-sheets, book, leaflet, booklet or any single or periodical publication or otherwise displays or distributes any advertisement or other matter— Penalty for printing or publishing advertisements in contravention of provisions of Act, etc.

(*a*) which commends, solicits the use of or offers any intoxicant or hemp, or

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act, or to commit a breach of, or to evade the provisions of, any rule, regulation or order made thereunder or of the conditions of a licence, permit, pass or authorization granted thereunder—

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

74. Whoever, in contravention of a notification issued under sub-section (*3*) of section 24, circulates, distributes or sells any newspaper, news-sheet, book, leaflet, booklet or other publication printed and published outside the Province which contains any advertisement or matter,— Penalty for circulating, etc., newspapers, etc., containing advertisements regarding intoxicants, etc.

(*a*) which comends, solicits the use of or offers any intoxicant or hemp,

(*b*) which is calculated to encourage or incite any individual or class of individuals or the public generally to commit any offence under this Act, or to commit a breach of or to evade the provisions of any rule, regulation or order made thereunder, or the conditions of any licence, permit, pass or authorization granted thereunder,—

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

75. Whoever, in contravention of the provisions of this Act or any rule, regulation or order made thereunder,— Penalty for inciting or encouraging certain acts frustrating provisions of this Act.

(*a*) commends, solicits the use of or offers any intoxicant or hemp, or

(*b*) incites or encourages any individual or a class of individuals or the public generally to commit any act which frustrates or defeats the provisions of this Act, rule or regulation or order, or

(*c*) does any act which is calculated to incite or encourage any individual, or a class of individuals or the public generally to commit an offence under this Act or to commit a breach of any rule, regulation or order made or of conditions of a licence, permit, pass or authorization granted thereunder,

shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for neglect to keep measures, etc.

76. Whoever in contravention of the provisions of this Act, rule or regulation or order or the condition of any licence, permit or pass granted under this Act,—

(*a*) neglects to supply himself with measures and weights for measuring and weighing any intoxicant or hemp, or with instruments for testing the strength of liquor or keep the same in good condition, or

(*b*) refuses to measure, weigh, or test any intoxicant or hemp in his possession,

shall, on conviction, be punished for each such offence with fine which may extend to two hundred rupees.

Penalty for misconduct by licensee, etc.

77. Whoever, being the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) fails to produce licence, permit, pass or authorization on demand by a Prohibition Officer or any other officer duly empowered if such licence, permit, pass or authorization is in his possession or control, or

(*b*) wilfully does or omits to do anything in contravention of any rule, regulation or order made under this Act, or

(*c*) wilfully does or omits to do anything in breach of any of the conditions of such licence, permit, pass or authorization, not otherwise provided for in this Act,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees or with both.

Penalty for misconduct by licensed vendor or manufacturer.

78. Whoever, being the holder of a licence for the sale or manufacture of any intoxicant under this Act, or a person in the employ of such holder or acting with his express or implied permission on his behalf—

(*a*) mixes or permits to be mixed with the said intoxicant any noxious drug or any foreign ingredient likely to add to the actual or apparent intoxicating quality or strength or any article prohibited by any rule made under this Act or water except for the purpose of reducing liquor to the strength prescribed in the licence, or any diluting or colouring substance or any ingredient whatsoever likely to render the intoxicant inferior in quality whether such ingredient is or is not prohibited as aforesaid, when such admixture shall not amount to the offence of adulteration under section 272 of the Indian Penal Code, or XLV of 1860.

(*b*) sells or keeps or exposes for sale as foreign liquor, liquor which he knows or has reason to believe to be country liquor, or

(*c*) marks the cork of any bottle, or any bottle, case, package or other receptacle, containing country liquor, or uses any bottle, case, package or other receptacle containing country liquor, with any mark thereon or on the cork thereof with the intention of causing it to be believed that such bottle, case, package or other

receptacle contains foreign liquor, when such act shall not amount to an offence of using a false trade mark with intent to deceive or injure any person under section 482 of the Indian Penal Code, or

XLV of 1860.

(*d*) sells or exposes for sale, any country liquor in a bottle, case or package or other receptacle, with any mark thereon, or on the cork thereof with the intention of causing it to be believed, that such bottle, case, package or other receptacle contains foreign liquor, when such act shall not amount to the offence of selling goods marked with a counterfeit trade mark under section 486 of the Indian Penal Code, or

XLV of 1860.

(*e*) sells any intoxicant which is not of the nature, substance and quality demanded by the purchaser or keeps or exposes for sale any intoxicant which is not of the nature, substance and quality authorized by the terms of the licence to be kept for sale by the holder of the licence,

shall, on conviction, be punished for each such offence with imprisonment for a term which may extend to six months and with fine which may extend to one thousand rupees.

Liability of licensee for acts of servants.

79. The holder of a licence, permit, pass or authorization granted under this Act shall be responsible, as well as the actual offender, for any offence committed by any person in his employ or acting with his express or implied permission on his behalf under the provisions of this Act as if he himself had committed the same, unless he shall establish that all due and reasonable precautions were exercised by him to prevent the commission of such offence:

Provided that no person other than the actual offender shall be punished with imprisonment except in default of payment of fine.

Import, export, etc. of intoxicant by any person on account of another.

80. (*1*) Whenever any intoxicant, hemp, mhowra flowers or molasses are manufactured, imported, exported, transported, sold or are possessed by any person on account of any other person and such other person knows or has reason to believe that such manufacture, import, export, transport, sale or possession is, on his account, the intoxicant, hemp, mhowra flowers or molasses, as the case may be, shall for the purposes of this Act, be deemed to have been manufactured, imported, exported, transported or sold by or to be in the possession of, such other person.

(*2*) Nothing in sub-section (*1*) shall absolve any person from liability to any punishment under this Act for the unlawful manufacture, import, export, transport, sale or possession of such articles.

Penalty for attempts or abetment.

81. Whoever attempts to commit or abets the commission of an offence under this Act shall, on conviction, be punished for such attempt or abetment with the same punishment as is provided for the principal offence.

Breach of licence, permit, etc., to be an offence.

82. (*1*) In the event of any breach by the holder of any licence, permit, pass or authorization granted under this Act or by his servants or by any person acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence, permit, pass or authorization, such holder shall, in addition to the cancellation or suspension of the licence, permit, pass or authorization granted to him, be punished, on conviction with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both, unless it is proved that all due and reasonable precautions were exercised by him to prevent any such breach.

(2) Any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, permit, pass or authorization be liable to the same punishment.

Penalty for conspiracy.

83. When two or more persons agree —

(a) to commit or cause to be committed any offence under this Act, or

(b) to defeat or frustrate the provisions of this Act, rule, regulation or order, or to commit a breach of a condition of a licence, permit, pass or authorization, each of such persons shall, on conviction, be punished with imprisonment for a period which may extend to two years or with fine which extend to one thousand rupees or with both.

Penalty for being found drunk in any drinking house.

84. Whoever is found drunk or drinking in a common drinking-house, or is found there present for the purpose of drinking, shall, on conviction be punished with fine which may extend to five hundred rupees. Any person found in a common drinking house during any drinking therein shall be presumed, until the contrary is proved, to have been there for the purpose of drinking.

Penalty for being drunk and for disorderly behaviour.

85. Whoever in any street or thoroughfare or public place or in any place to which the public have or are permitted to have access—

(1) is drunk and incapable of taking care of himself, or

(2) behaves in a disorderly manner under the influence of drink,

shall, on conviction, be punished,—

(i) for an offence under clause (1),—

(a) for a first offence, with imprisonment for a term which may extend to one month and with fine which may extend to two hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than seven days and fine shall not be less than twenty-five rupees and

(b) for a subsequent offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees ; and

(ii) for an offence, under clause (2),—

(a) for a first offence, with imprisonment for a term which may extend to three months and with fine which may extend to five hundred rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one month and fine shall not be less than one hundred rupees : and

(b) for a subsequent offence, with imprisonment for a term which may extend to one year and with fine which may extend to one thousand rupees :

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees.

Penalty for allowing any premises to be used for purpose of committing an offence under Act.

86. (1) Whoever, being the owner or occupier, or having the use or care or management or control of any place, knowingly permits it to be used for the purpose of the commission by any other person of any offence punishable under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, the imprisonment shall not be less than three months and fine shall not be less than five hundred rupees.

(*2*) It shall be presumed until the contrary is proved, that a person accused of an offence under sub-section (*1*) has committed such offence if the offence committed by that other person is proved to have been committed in the premises in his immediate possession.

Penalty chemist, druggist or apothecary for allowing his premises to be used for purpose of consumption of liquor.

87. A chemist, druggist, apothecary or keeper of a dispensary who allows any liquor, which has not been *bona fide* medicated for medicinal purposes according to the prescription of a medical practitioner or any intoxicating drug to be consumed on his business premises by any person, shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Penalty for issuing false prescriptions.

88. If a medical practitioner issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor, intoxicating drug or opium in contravention of the provisions of this Act, or rule, regulation or order made thereunder or any licence, permit, pass or authorization granted under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Penalty for maliciously giving false information.

89. Any person who maliciously and falsely gives information to any person exercising powers under this Act leading to a search, seizure, detention or arrest shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.

Penalty for offences not otherwise provided for.

90. Whoever is guilty of any wilful act or intentional ommission in contravention of the provisions of this Act, or any rule, regulation, or order thereunder or of any licence, permit, pass or authorization granted under this Act, and if such act or omission is not otherwise made an offence under this Act shall, on conviction, be punished with the imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

Demand for security for abstaining from commission of certain offences.

91. (*1*) Whenever any person is convicted of an offence punishable under this Act, the court convicting such person, may, at the time of passing the sentence on such person, order him to execute a bond for a sum proportionate to his means with or without sureties to abstain from the commission of offences punishable under the provisions of this Act during such period not exceeding three years as it may direct.

(*2*) The bond shall be in such form as may be provided under the provisions of the Code of Criminal Procedure, 1898, and the provisions of the said Code shall in so far as they are applicable apply to all matters connected with such bond as if it were a bond to keep the peace ordered to be executed under section 106 of the said Code.

V of 1898.

(*3*) If the conviction is set aside in appeal the bond so executed shall become void.

Release of offenders on bond.

92. Whenever any person is convicted of an offence of consuming an intoxicant under this Act, the court convicting him may, instead of sentencing him at once to any punishment, direct him to be released on his executing a bond with or without

sureties to appear and receive sentence when called upon during such period not exceeding three years as the court may direct, and in the meantime to keep the peace and be of good behaviour.

Demand of security for good behaviour.

93. (*1*) Whenever a Presidency Magistrate in the Greater Bombay and elsewhere a Magistrate of the first class receive information that any person within the local limits of his jurisdiction habitually commits or attempts to commit, or abets the commission of, an offence punishable under this Act, such magistrate may require such person to show cause why he should not be ordered to execute a bond, with sureties, for his good behaviour for such period not exceeding three years as the magistrate may direct.

(*2*) The provisions of the Code of Criminal Procedure, 1898, shall in so far as they are applicable apply to any proceedings under sub-section (*1*) as if the bond referred to therein were a bond required to be executed under section 110 of the said Code. V of 1898.

Execution of bonds in respect of minors.

94. If any person in respect of whom a bond is ordered to be executed under the last three preceding sections is a minor, the bond shall be executed by his guardian.

Punishment for vexatious search, seizure or arrest.

95. Any officer or person exercising powers under this Act who—

(*a*) maliciously enters or searches or causes to be entered or searched, any building or house or similar dwelling place ; or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act ; or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person ; or

(*d*) in any other way maliciously exceeds or abuses his lawful powers,

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Punishment for vexatious delay

96. Any officer or person who vexatiously and unnecessarily delays forwarding to the officer in charge of the nearest police station any person arrested or article seized under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Punishment for abetment for escape of persons arrested.

97. Any officer or person exercising powers under this Act, who—

(*a*) unlawfully releases any person arrested under this Act, or

(*b*) abets the escape of any person arrested under this Act, or

(*c*) abets the commission of any offence against this Act, and

any other officer of the Crown or of a local authority who abets the commission of any offence against this Act,

shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both.

Things liable to confiscation.

98. (*1*) Whenever any offence punishable under this Act has been committed,

(*a*) any intoxicant, hemp, mhowra flowers, molasses, materials, still, utensil, implement or apparatus in respect of which the offence has been committed,

(*b*) where in the case of an offence involving illegal possession, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses

other than those in respect of which an offence under this Act has been committed, the entire stock of such intoxicant, hemp, mhowra flowers or molasses,

(*c*) where, in the case of an offence of illegal import, export or transport, the offender has attempted to import, export or transport any intoxicant, hemp, mhowra flowers or molasses, in contravention of the provisions of this Act, rule, regulation or order or in breach of a condition of a licence, permit, pass, or authorization, the whole quantity of such intoxicant, hemp, mhowra flowers or molasses which he has attempted to import, export or transport,

(*d*) where in the case of an offence of illegal sale, the offender has in his lawful possession any intoxicant, hemp, mhowra flowers or molasses, other than that in respect of which an offence has been committed, the whole of such other intoxicant, hemp, mhowra flowers or molasses,

shall be confiscated by the order of the court.

(*2*) Any receptacle, package or covering in which any of the articles liable to confiscation under sub-section (*1*) is found and the other contents of such receptacle, package or covering and the animals, carts, vessels or other conveyances used in carrying any such article shall like-wise be liable to confiscation by the order of the Court.

Return of things liable to confiscation to *bona fide* owners.

99. When during the trial of a case for an offence under this Act the court, decides that anything is liable to confiscation under the foregoing section, the court may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation, or in the case of any article other than an intoxicant, hemp, mhowra flowers or molasses give the owner an option to pay fine as the court deems fit in lieu of confiscation :

Provided that no animal, cart, vessel, vehicle or other conveyance shall be confiscated if the owner thereof satisfies the court that he had exercised due care in preventing the commission of the offence.

Procedure in confiscation.

100. When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act is found or seized, the Commissioner, Collector or any other officer authorized by the Provincial Government in this behalf may make an inquiry and if after such inquiry is satisfied that an offence has been committed, may order the thing found to be consfiscated :

Provided that no such order shall be made before the expiry of one month from the date of seizure, or without hearing any person who can claim any right thereto and the evidence, if any, which he produces in support of his claim.

Power of Collector, etc., to order sale or destruction of articles liable to confiscation.

101. If the thing in question is liable to speedy and natural decay, or if the Commissioner, Collector, Magistrate or the officer authorized by the Provincial Government in this behalf is of opinion that the sale would be for the benefit of the owner, the Commissioner, Collector, Magistrate or the officer may at any time direct it to be sold and the provisions of section 99 or 100 shall apply so far as may be to the net proceeds of the sale :

Provided that in the case of anything liable to speedy and natural decay, the officer concerned may order it to be destroyed if in his opinion such order is expedient in the circumstances of the case.

Forfeiture of any publication containing advertisement or matter commending use of intoxicants.

102. (*1*) Where any newspaper, newssheet, book, leaflet, booklet or other publication wherever printed or published appears to the Provincial Government to contain any advertisement or matter commending, soliciting the use of, or offering any intoxicant or hemp, the Provincial Government may, by notification in the *Official Gazette*, declare every copy of such newspaper, newssheet, book, leaflet, booklet or other publication whether printed or published in the Province or outside to be forfeited to His Majesty, and thereupon any Police Officer may seize the same wherever found in the Province. Any Magistrate may by warrant authorize any Police Officer not below the rank of Sub-Inspector to enter upon and search for the same in any premises where any copy of such issue or any such newspaper, newssheet, book, leaflet, booklet, or other publication may be or may be reasonably suspected to be. Every warrant issued under this section shall be executed in the manner provided for the execution of search warrants under the Code of Criminal Procedure, 1898. V of 1898.

(*2*) The declaration of the Provincial Government under this section shall be final and shall not be questioned in any Civil or Criminal Court.

Presumption as to commission of offences in certain cases.

103. (*1*) In prosecutions under any of the provisions of this Act, it shall be presumed, without further evidence, until the contrary is proved, that the accused person has committed an offence under this Act in respect of any intoxicant, hemp, mhowra flowers or molasses or any still, utensil, implement or apparatus, whatsoever, for the manufacture of any intoxicant as are ordinarily used in the manufacture of such intoxicant, for the possession of which he is unable to account satisfactorily.

(*2*) In prosecutions under section 67 it shall be presumed without further evidence until the contrary is proved that the accused person has committed an offence under that section in respect of any denatured spirit which has been or attempted to be altered in contravention of the provisions of section 21.

Compounding of offences.

104. (*1*) The Provincial Government may sanction the acceptance from any person whose licence, permit, pass or authorization is liable to be cancelled or suspended under the provisions of this Act or who is reasonably suspected of having committed an offence under section 108, of a sum of money in lieu of such cancellation or suspension or by way of composition for the offence which may have been committed, as the case may be ; and in all cases in which any property other than the intoxicant, hemp, mhowra flowers or molasses has been seized as liable to confiscation under this Act may release the same on payment of the value thereof as estimated by the Provincial Government or such officer as the Provincial Government may authorize in this behalf :

Provided that where a person who is reasonably suspected of having committed an offence under section 108 is not the holder of a licence, permit, pass or authorization granted under this Act or a person in the employ of such holder or a person acting with his express or implied prmission on his behalf, the sum of money which may be accepted from such person by way of composition shall not exceed five hundred rupees.

(*2*) On the payment by such person of such sum of money, or such value or both, as the case may be, such person, if in custody, shall be set at liberty and the property seized may be released and if any proceedings shall have been instituted against such person in any Criminal Court, the emposi tion shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or property with reference to the same facts.

CHAPTER VIII.

EXCISE DUTIES.

105. An excise duty or countervailing duty, as the case may be, at such rate or rates as the Provincial Government shall direct may be imposed either generally or for any specified local area on— Excise duties.

(*a*) any alcoholic liquor for human consumption,
(*b*) any intoxicating drug,
(*c*) any medicinal or toilet preparation containing alcohol,
(*d*) any other excisable article,

when imported, exported, transported, possessed, manufactured or sold in accordance with the provisions contained in Chapter IV of this Act :

XXXII of 1934. VIII of 1878.

Provided that duty shall not be so imposed on any article which has been imported into the Dominion of India and was liable on such importation to duty under the Indian Tariff Act, 1934, or the Sea Customs Act, 1878.

Explanation.—Duty may be imposed under this section at different rates according to the places to which an excisable article is to be removed for consumption or according to varying strengths or quality of such article.

106. Subject to any regulations to regulate the time, place and manner of payment made by the Commissioner in this behalf, the duties referred to in section 105 may be levied in one or more of the following ways :— Manner of levying excise duties.

(*a*) in the case of an excisable article imported—

(*i*) by payment either in the Province at the time of its import or in the Province or territory of export at the time of its export, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*b*) in the case of an excisable article exported by payment in the Province at the time of its export, or in the Province or territory of import ;

(*c*) in the case of excisable articles transported—

(*i*) by payment in the district from which they are transported, or

(*ii*) by payment upon issue for sale from a warehouse established or licensed under the provisions of this Act ;

(*d*) in the case of spirit or beer manufactured in any distillery established or any distillery or brewery licensed under this Act—

(*i*) by a rate charged upon the quantity produced in or issued from the distillery or brewery, as the case may be, or issued from a warehouse established or licensed under this Act, or

(*ii*) by a rate charged in accordance with such sale of equivalents calculated on the quantity of materials used or by the degree of attenuation of the wash or wort, as the case may be, as the Provincial Government may prescribe ;

(*e*) in the case of intoxicating drugs manufactured in pursuance of a licence granted under this Act, by payment upon the quantity produced or manufactured or issued from a warehouse established or licensed under this Act :

Provided that where payment is made upon issue for sale from a warehouse established or licensed under this Act, such payment shall be at the rate of the duty in force at the date of issue from the warehouse ;

Provided further that where one and the same person is permitted—

(*i*) to manufacture or import and to sell, or

(*ii*) to manufacture and export,

country liquor or any intoxicant, such duty may be levied in consideration of the joint privileges granted, as the Collector deems fit.

Power to exempt, remit or refund excise duty.

107. Subject to any rules or orders made by the Provincial Government in this behalf, the Commissioner may remit or refund wholly or partially excise duty and fee leviable under this Act on any intoxicant or hemp from any person, or institution, or a class of persons or institutions or exempt such person or institution from the payment of such duty or fee.

Penalty for import, of intoxicant, etc. without payment of duty.

108. Whoever imports, exports, transports, possesses or manufactures any intoxicant or hemp without the payment of duty or fee provided for under this Act shall, on conviction, be liable to the same punishment prescribed in respect of such intoxicant or hemp in regard to its import, export, transport, possession or manufacture in contravention of the provisions of this Act.

Duty on tapping of toddy trees.

109. (*1*) For every toddy producing tree from which toddy is drawn there shall, if the Provincial Government so directs, be levied for any period during which such tree is tapped or licensed to be tapped, such duty as the Provincial Government may from time to time direct.

(*2*) Every licence for drawing toddy granted under this Act shall specify in addition to any other particulars prescribed under the provisions of this Act or rules or regulations—

(*a*) the number, description and situation of the trees to be tapped,

(*b*) the amount of duty to be levied in respect of each tree,

(*c*) the instalments, if any in which and the period at which the said duty shall be leviable.

Duty by whom payable.

110. The duty on toddy producing trees shall be leviable primarily from the person holding the licence to draw toddy and in default by him or if the trees are tapped without licence, from the owner of the trees.

Owner of trees entitled to assistance for duty paid.

111. When the duty on toddy producing trees is levied from the owner of the trees, he shall be entitled to assistance in recovering the same from the holder of the licence under the provisions of the law for the time being in force relating to the recovery by superior holders of their dues from thier tenants.

Privilege of drawing toddy from trees belonging to Government.

112. The privilege of drawing toddy from trees the right to which vests in the Provincial Government may be disposed of annually by auction or otherwise on such terms as the Collector deems fit.

Rules for levy of duty on opium, etc.

113. (*1*) The Provincial Government may make rules for all or any of the following matters,—

(*a*) the levy of duty on the import of opium,

(*b*) the sale of opium and the farm of duties leviable on the sale of opium by retail,

(*c*) the levy of fees for the warehousing of opium imported :

Provided that no duty shall be levied under any such rule on any opium imported and on which a duty is imposed by or under the law relating to sea or land customs for the time being in force or under the Dangerous Drugs Act, 1930.

(2) The Provincial Government may also make rules for the disposal of any opium, if any duty or fees leviable on it be not paid within twelve months from the date of warehousing the same.

Recovery of duties, etc.

114. All duties, taxes, fines (except fines imposed by a Court) and fees leviable under any of the foregoing provisions of this Act or of any licence, permit, pass or authorization granted under it, may be recovered from any person liable to pay the same or from his surety, if any, as if they were arrears of land revenue.

CHAPTER IX.

POWERS AND DUTIES OF OFFICERS AND PROCEDURE.

Magistrate's power to impose higher fine.

V of 1898.

115. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, it shall be lawful for a Presidency Magistrate or any Magistrate of the First Class to pass a sentence of fine exceeding one thousand rupees on any person convicted of an offence under section 65, 66, 68 or 69.

Procedure to be followed by Magistrates.

V of 1898.

116. In all trials for offences under this Act, the Magistrates shall follow the procedure prescribed in the Code of Criminal Procedure, 1898, for the trial of summary cases in which an appeal lies.

Investigations, arrests, searches, etc., how to be made.

V of 1898.

117. Save as otherwise expressly provided in this Act, all investigations, arrests, detentions in custody and searches shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898:

Provided that in any local area as may be specified in a notification in the *Official Gazette* by the Provincial Government, no search shall be deemed to be illegal by reason only of the fact that witnesses for the search were not inhabitants of the locality in which the place searched is situated.

Offences to be cognizable.

V of 1898.

Bom. IV of 1902.

118. (1) In the absence of any provision to the contrary in this Act and save as provided in sub-section (2) of this section, the provision of the Code of Criminal Procedure, 1898, with respect to cognizable offences shall apply to offences under this Act.

(2) In the Greater Bombay the provisions of the City of Bombay Police Act, 1902, with respect to cognizable offences shall apply to offences under this Act:

Provided that the powers with which an officer in charge of a Police Station or a Police Officer making an investigation are invested under section 66 of the City of Bombay Police Act, 1902, shall not be exercised in relation to the search of any house or building to which the public have no right of access except with the permission to be recorded in writing of an officer not lower in rank than an officer in-charge of a Police Station.

Bom. IV of 1902.

Offences to be non-bailable.

119. Offences under sections 65 and 68 shall be non-bailable.

Powers of entry and inspection

120. The Commissioner, Collector, or any Prohibition Officer duly empowered in this behalf by the Provincial Government or any Police Officer may—

(a) enter at any time by day or by night, any house or building, or enclosed space in which he has reason to believe that any intoxicant, opium, hemp, mhowra flowers or molasses liable to confiscation under this Act are manufactured, kept or concealed or that any still, utensils, implement or apparatus is used, kept or concealed for the purpose of manufacturing any such articles;

(*b*) in case of resistance, break open any door and remove any other obstacle to his entry into any such warehouse, shop, premises, house, building, or enclosed space;

(*c*) seize any intoxicant, hemp, mhowra flowers or molasses and any material used in the manufacture of any intoxicant and any still, utensil, implement or apparatus and any other thing which he has reason to believe to be liable to confiscation under this Act; and

(*d*) detain and search and if he thinks proper, arrest any person whom he has reason to believe to be guilty of any offence under this Act.

Power to open packages, etc.

121. (*1*) Any Prohibition Officer duly empowered in this behalf by the Provincial Government or any Police Officer may open any package and examine any goods and may stop or search for any intoxicant, hemp, mhowra flowers or molasses any vessel, vehicle or other means of conveyance.

(*2*) The unloading and carrying of goods, the bringing of them to the place appointed under sub-section (*3*) for examination, the opening and repacking of them, where such operations are necessary to be made under this section and the removing of goods to and placing of them in the place appointed under sub-section (*3*) for deposit, shall be performed by or at the expense of the owner of such goods.

(*3*) The owner of goods or the persons in charge of the goods shall, if so required by any officer conducting the search, take the goods to a place appointed by the District Magistrate, or Commissioner of Police, Bombay, for the purpose of examination or deposit.

(*4*) The expenses incurred under sub-section (*2*) for the purpose of removing goods to and the placing of them in the place appointed under sub-section (*3*) may be recovered as an arrear of land revenue.

Powers to require production of licences.

122. (*1*) The Commissioner or Collector or any Prohibition Officer duly empowered in this behalf or any Police Officer may—

(*a*) require a licensed manufacturer or vendor or a person in the employ of such manufacturer or vendor or acting with his express or implied permission on his behalf to produce the licence, permit, pass or authorization issued under this Act under which he carries on the manufacture, storage or sale of any intoxicant, hemp, mhowra flowers or molasses or taps toddy producing trees or draws toddy therefrom;

(*b*) enter and inspect, at any time by day or by night, any land on which toddy producing trees licensed for tapping are growing or toddy is drawn from such trees, or any warehouse, shop or premises in which any licensed manufacturer or vendor manufactures, stores or sells any intoxicant, hemp, mhowra flowers or molasses or examines, tests, measures, and weighs any stock of any such articles.

(*2*) If such officer finds that the holder of a licence, permit, pass or authorization issued under this Act or a person in the employ of such holder or acting with his express or implied permission on his behalf wilfully does or omits to do anything which is an offence under this Act, such officer may seize any intoxicant, hemp, mhowra flowers or molasses or any material in respect of which the offence is committed and send a report to his official superior for such action under this Act as he deems fit.

123. (*1*) Any Prohibition Officer authorized by the Provincial Government in this behalf or any Police Officer may— Arrest of offenders and seizure of contraband articles.

(*a*) arrest without a warrant any person whom he has reason to believe to be guilty of an offence under this Act;

(*b*) seize and detain any intoxicant, hemp, mhowra flowers or molasses or other articles which he has reason to believe to be liable to confiscation or forfeiture under this Act.

(*2*) Any Prohibition Officer authorized by the Provincial Government under this section who arrests any person under sub-clause (*a*), or seizes and detains any article under sub-clause (*b*), of sub-section (*1*) shall forward such person or article, as the case may be, without unnecessary delay to the officer in charge of the nearest Police Station.

124. (*1*) The Commissioner, or Collector or any Prohibition Officer specially empowered in this behalf by the Provincial Government or a Police Officer may, by order require any person to furnish to any specified authority or person any such information in his possession concerning any intoxicant, hemp, mhowra flowers or molasses as may be specified in the order. Power to obtain information.

(*2*) If any person fails to furnish any information in compliance with the order made under sub-section (*1*) or furnishes false information, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

125. The Commissioner, Collector or any Prohibition Officer duly empowered in this behalf or any Police Officer may— Power to seize intoxicants, etc.

(*a*) seize in any open place, or in transit any intoxicant, hemp, mhowra flowers or molasses or any other thing which he has reason to believe to be liable to confiscation under this Act or any other law for the time being in force relating to excise revenue;

(*b*) detain and search any person whom he has reason to believe to be guilty of any offence against this Act or any other law for the time being in force relating to excise revenue, and if such person has any intoxicant, hemp, mhowra flowers, molasses or any other thing in his possession, arrest him.

126. The Commissioner, Collector or any Prohibition Officer duly empowered in this behalf by the Provincial Government or any Police Officer may arrest without an order from a Magistrate and without warrant any person who obstructs him in the execution of his duties under this Act or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act. Arrest without warrant.

127. (*1*) When any person who in the presence of the Commissioner, Collector or any Prohibition Officer not below such rank as the Provincial Government may determine, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence or gives a name and residence which such officer has reason to believe to be false, he may be arrested by such officer, in order that his name or residence may be ascertained. Arrest of offenders failing to give names.

(*2*) When the true name and residence of such person have been ascertained, he shall be released on his executing a bond with or without sureties, to appear before a Magistrate when so required:

Provided that if such person is not resident in the Dominion of India, the bond shall be secured by a surety or sureties residing in the Dominion of India.

(*3*) If the true name and residence of such person is not ascertained within twenty-four hours from the time of the arrest, or if he fails to execute the bond, or if so required, to furnish sufficient sureties, he shall forthwith be forwarded to the nearest Magistrate having jurisdiction.

Issue of warrants.

128. (*1*) The Commissioner, Collector or any Prohibition Officer duly empowered in this behalf or a Magistrate or a District Superintendent of Police or an Assistant or Deputy Superintendent of Police specially empowered by the Provincial Government in this behalf may issue a warrant—

(*a*) for the arrest of any person whom he has reason to believe to have committed an offence under this Act or any other law relating to the excise revenue for the time being in force,

(*b*) for the search, whether by day or by night, of any building, vehicle or place in which he has reason to believe that any intoxicant, hemp, opium, mhowra flowers or molasses are manufactured or sold or stored or that any toddy is drawn, contrary to the provisions of this Act or that any intoxicant, hemp, or opium or other thing liable to confiscation or forfeiture under this Act or any other law for the time being in force relating to the excise revenue is kept or concealed.

(*2*) All warrants issued under sub-section (*1*) shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898, by Police Officer or a Prohibition Officer duly empowered in this behalf or if the officer issuing the warrant deems fit, by any other person. V of 1898.

Prohibition Officers may be empowered to investigate offences.

129. (*1*) The Provincial Government may empower any Prohibition Officer to investigate offences under this Act.

(*2*) An officer empowered under sub-section (*1*) shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a Police Station for the investigation of cognizable offences. V of 1898.

(*3*) Any Prohibition Officer to whom such officer is subordinate may, during the course of the investigation, take over the investigation himself or direct any other Prohibition Officer duly empowered to conduct the same. The officer in conducting the investigation shall have the same powers under sub-sections (*1*) and (*2*), as if he were the Prohibition Officer appointed for the area or for the purpose of investigating the said offence.

(*4*) If the Prohibition Officer conducting the investigation is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of the accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond with or without sureties, to appear, if and when so required, before a Magistrate empowered to take cognizance of the offence, and shall make a full report of the case to his official superior and be guided by the order which he shall receive on such report.

(*5*) The powers of an officer empowered under this section shall be subject to such other modifications or restrictions as the Provincial Government may deem fit.

Arrested persons and things seized to be sent to officer-in-charge of Police Station.

130. Every person arrested and thing seized by a Prohibition Officer under this Act shall be sent to the officer-in-charge of the nearest Police Station.

131. (*1*) Any Prohibition Officer empowered to investigate an offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without a warrant for an offence under this Act. Bail by Prohibition Officer.

V of 1898.

(*2*) When any person has been arrested under section 126 a Prohibition Officer empowered to investigate offence under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Prodcedure, 1898.

V of 1898.

132. When anything has been seized by a Prohibition Officer other than the Collector or Commission under the provisions of this Act, or has been sent to him in accordance with the provisions of this Act, such officer, after such inquiry as may be deemed necessary,— Articles seized.

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, shall forward it to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken,

(*b*) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send it with a full report of the particulars of the seizure to the Collector,

(*c*) if no offence appears to have been committed shall return it to the person from whose possession it was taken.

133. Every officer of the Crown and every officer or servant of a local authority shall be legally bound to assist any police officer or person authorized in this behalf in carrying out the provisions of this Act. Duty of officials of all Departments and local authorities to assist.

134. Every village officer or servant useful to Government and every officer of any other Department of the Provincial Government and any officer or servant of a local authority shall be bound to give immediate information at the nearest Police Station or section or to any officer or person authorized in this behalf of any breach of any of the provisions of this Act which may come to their knowledge; and all such officers and servants shall be bound to take all reasonable measures in their power to prevent the commission of any such breaches about which they may have knowledge or which they may have reason to believe or about or likely to be committed. Offences to be reported.

135. Every person who occupies any land or building or who is a landlord of an estate residing in the village on or in which there has been any tapping for toddy or manufacture of any liquor or intoxicating drug not authorized by a permit or a licence issued under this Act, and every owner of a vessel or vehicle in which liquor or intoxicating drug is manufactured without such permit or licence, shall, in the absence of reasonable excuse, be bound to give notice of the same to a Magistrate or to a Prohibition Officer or to an Officer of the Police as soon as such tapping or manufacture shall come to his knowledge. Landlords and others to give information.

136. (*1*) If any Prohibition Officer not below the rank of the Commissioner and Collector and any Police Officer not below the rank of the Superintendent of Police in Greater Bombay or the Deputy Superintendent of Police elsewhere authorized in this behalf by the Provincial Government by general or special order is satisfied that any person is acting or is likely to act in a manner which amounts to a preparation, an attempt, an abetment or a commission of any of the offences Power to arrest and make orders detaining or restricting movements or actions of persons.

punishable under section 65 or 68, such officer may arrest or cause to be arrested such person without warrant and direct that such person shall be committed to such custody as such officer may deem fit for a period not exceeding fifteen days and such officer shall forthwith report the fact of such arrest to the Provincial Government.

(*2*) The Provincial Government may, if it is satisfied that any person including a person arrested under sub-section (*1*) was acting, is acting or is likely to act in the manner specified in sub-section (*1*), make an order—

(*a*) directing that he be detained ;

(*b*) directing that, except in so far as he may be permitted by the provisions of the order, or by such authority or person as may be specified therein, he shall not be in any such area or place in the Province as may be specified in the order ;

(*c*) requiring him to reside or remain in such place or within such area in the Province as may be specified in the order and, if he is not already there, to proceed to that place or area within such time as may be specified in the order ;

(*d*) requiring him to notify his movements or to report himself or to do both in such manner, at such times and to such authority or person, as may be specified in the order ;

(*e*) imposing upon him such restrictions as may be specified in the order, in respect of his employment or business or association or communication with other persons, and in respect of his activities in relation to the dissemination of news or propagation of opinion ;

(*f*) prohibiting or restricting the possession or use by him of any such article or articles as may be specified in the order.

(*3*) An order made under sub-section (*2*) may require the person in respect of whom it is made to enter into a bond, with or without sureties, for the due observance of the restrictions or conditions specified in the order.

(*4*) When any person is detained under an order made under clause (*a*) of sub-section (*2*), the Provincial Government may, notwithstanding anything contained in sub-section (*2*), in lieu of such order make any such order as is described in clause (*b*), (*c*) or (*d*) of the said sub-section.

(*5*) If any person is found in any area or place in contravention of an order made under the provisions of this section, or fails to leave any area or place in accordance with the requirements of such order, he may, without prejudice to the provisions of sub-section (*8*), be removed by any police officer from such area or place.

(*6*) So long as there is in force in respect of any person an order under clause (*a*) of sub-sectin (*2*), he shall be liable to be removed to, and detained in, such place and under such conditions, including conditions as to maintenance, discipline and punishment for breaches of discipline, as the Provincial Government may from time to time by general or special order specify.

(*7*) If the Commissioner of Police, Bombay, or the District Magistrate, or the Additional District Magistrate has reason to believe that a person in respect of whom an order has been made under clause (*a*) of sub-section (*2*) has absconded or is concealing himself or is otherwise delaying or frustrating the execution of the order, he may—

(*a*) make a report in writing of the fact to a Presidency Magistrate or a Magistrate of the first class, as the case may be, having jurisdiction in the place where the said person ordinarily resides ; and thereupon the provisions of sections 87, 88 and 89 of the Code of Criminal Procedure, 1898, shall apply in respect of the said person and his property as if the order directing that he be detained were a warrant issued by the Magistrate, or V of 1898.

(*b*) by a direction notified in the *Official Gazette*, require the said person to appear before him at such place, and within such period, as may be specified in the direction, and if the said person fails to comply with such direction he shall, unless he proves that it was not possible for him to comply with it and that he had within the period specified in it, informed the Commissioner of Police, or the District Magistrate, or the Additional District Magistrate, as the case may be, of his whereabouts and of the reasons which rendered complian with it impossible, be punished, on conviction, with imprisonment for a term which may extend to one year, or with fine, or with both.

(*8*) If any person contravenes any order made under this section he shall, on conviction, be punished with imprisonment for a term which may extend to one year or with fine, or with both, and if such person has entered into a bond in pursuance of the provisions of sub-section(*3*) his bond shall be forfeited and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the Court why such penalty should not be paid.

(*9*) Where an order is made in respect of any person under sub-section (*1*) or sub-section (*2*), the authority making the order may, upon application by the person affected by the order, communicate to him the grounds on which the order has been made, without disclosing facts which it considers against the public interest to disclose and such particulars as are in its opinion sufficient to enable him to make a representation to the Provincial Government against the order and afford him the earliest opportunity of making such representation.

(*10*) On receipt of a representation under sub-section (*9*), the Provincial Government may either annul, amend or confirm the order or make any other order which it would have made under sub-section (*2*).

(*11*) An order made under this section shall not be called in question inany court, except on the ground that the procedure laid down in this section was not followed.

CHAPTER X.

Appeals and Revision.

137. (*1*) All orders passed by any Prohibition Officer other than the Collector or Commissioner under this Act, shall be appealable to the Collector at any time within sixty days from the date of the order complained of. Appeals.

(*2*) All orders passed by the Collector and Commissioner shall be appealable to the Commissioner and the Provincial Government respectively at any time within ninety days from the date of the order complained of :

Provided that no appeal shall lie against an order passed by the Commissioner on appeal.

(*3*) Subject to the foregoing provisions the rules which the Provincial Government may make in this behalf shall apply to appeals under this section.

138. The Provincial Government may call for and examine the record of any proceedings before any Prohibition Officer including those relating to the grant or refusal of a licence, permit, pass or authorization granted or applied for under this Act, for the purpose of satisfying itself as to the correctness, legality or propriety of any order passed in, and as to the regularity of, such proceedings and may either annul, reverse, modify or confirm such order or pass such other order as it may deem fit. Revision.

CHAPTER XI.

MISCELLANEOUS.

General powers of Provincial Government in respect of licences, etc.

139. Notwithstanding anything contained in this Act or the rules made thereunder, the Provincial Government may, by general or special order,—

(*a*) prohibit the grant of any kind of licences, permits, passes or authorizations throughout the Province or in any area ;

(*b*) regulate the import, export, transport, possession, sale, purchase, consumption, or use of any intoxicant, hemp, mhowra flowers, molasses or any article which is likely to be used for the manufacture of an intoxicant with or without licence, permit, pass or authorization throughout the Province or within the limits of any local area subject to such conditions and for such periods as it deems fit ;

(*c*) exempt any person or institution or any class of persons or institutions from the observance of all or any of the provisions of this Act, or any rule or regulation or order made thereunder ;

(*d*) exempt any intoxicant or class of intoxicants from all or any of the provisions of this Act ;

(*e*) prescribe the maximum number of licences, permits, passes or authorizations of any kind which may be granted in any area or to any class of persons ;

(*f*) prescribe the number of places at which any intoxicant specified in such order, hemp, mhowra flowers or molasses may be sold in any area, the location of such places in any area, the days and hours during which such places may or may not be kept open, the number of such places in respect of which licences for sale may be granted and the number of such places which may be managed by the Excise Department ;

(*g*) direct that no licence, permit, pass or authorization of the kind specified in such order shall be granted without the previous approval of the Provincial Government or also direct any additions or alterations to be made to or in the conditions subject to which under any other provisions of this Act, such licence, permit, pass or authorization can be granted.

(*h*) prescribe the maximum quantity of any intoxicant, hemp, mohwra flowers or molasses which may be sold in any area or at any place ;

(*i*) prescribe the maximum number of toddy producing trees for tapping which or for drawing toddy from which licence may be granted ;

(*j*) prescribe the procedure to be followed before granting any licence ;

(*k*) direct that before granting licences, auctions may be held, tenders called for or offers received and that licences shall be granted to persons whose bids, tenders or offers are accepted by the Collector ;

(*l*) specify the persons or class of persons to whom licences may not be granted and in cases in which auction are held, the person or classes of persons who may or may not be permitted to offer bids at such auctions ;

(*m*) direct that licences of the kind specified in such order shall be granted to persons specified in such order ; and

(*n*) issue such other instructions in any matter pertaining to the grant or otherwise of licences, permits, passes or authorizations under this Act, as the Provincial Government may deem proper.

140. The Provincial Government may, by general or special order, prohibit, regulate or control, subject to such conditions as may be specified in the order, the consumption or use of any intoxicant or hemp, in any public place.

Power of Provincial Government to prohibit, regulate or control consumption or use of intoxicants, etc., in public place.

141. (*1*) If the Provincial Government is satisfied that the inhabitants of any area are concerned in the commission or abetment of any of the offences punishable under sections 65 to 69, the Provincial Government may, by notification in the *Official Gazette*, direct the employment of additional police for such period as it thinks fit.

Employment of additional police.

(*2*) The cost of such additional police shall, if the Provincial Government so directs, be either in whole or in part defrayed by a tax imposed on the persons here in below mentioned, or by a rate assessed on the property of such persons, or both by a tax and by a rate so imposed and assessed, and charged—

(*a*) either generally on all persons who are inhabitants of the local area to which such notification applies; or

(*b*) specially on any particular section or sections or class or classes of such persons, and the Provincial Government may direct the proportions in which such tax or rate shall be charged.

Explanation.—For the purposes of this section "inhabitants" shall include persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents or revenue direct from rayats or occupiers in such area, notwithstanding that they do not actually reside therein.

(*3*) It shall be lawful for the Provincial Government to extend, for a term not exceeding in any case five years, the period for the payment of such tax or rate beyond the period for which such additional police are actually employed.

(*4*) The said tax shall be imposed, or the said rate shall be assessed except in a Municipal district, by the Collector at his discretion. If the local area in which any such tax is to be imposed or any such rate is to be assessed, is a municipal district the tax or rate shall be assessed by the Municipality conformably to the direction given by the Provincial Government under sub-section (*2*).

(*5*) It shall be lawful for the Provincial Government by order, to exempt any persons from liability to bear any portion of such cost.

142. (*1*) It shall be lawful for the Collector by notice in writing to the licensee to require that any place in which any intoxicant or hemp is sold by retail shall be closed at such time or for such period as he may deem necessary, if in the opinion of the Collector such closing is necessary in the interest of puclic peace.

Closing of shops.

(*2*) If a riot or unlawful assembly is imminent or occurring, it shall be lawful for any Magistrate or Police Officer who is present to direct that such place shall be closed and kept closed for such period as he thinks fit.

(*3*) Any order given under this section shall be final.

143. (*1*) The Provincial Government may make rules for the purpose of carrying out the provisions of this Act or any other law for the time being in force relating to excise revenues.

Power of Provincial Government to make rule.

(2) In particular and without prejudice to the generality of the foregoing provisions, the Provincial Government may make rules,—

(a) regulating the delegation of any powers by the Commissioner, by Collector or by any other Prohibition Officer;

(b) regulating the import, export, transport, sale, purchase, consumption, use or possession of any intoxicant or hemp, mhowra flowers or molasses;

(c) regulating the manufacture of any intoxicant;

(d) regulating the cultivation and collection of hemp;

(e) regulating the tapping of toddy producing trees and drawing of toddy therefrom;

(f) regulating the grant, suspension or cancellation of licences, permits, passes or authorizations for the import, export, transport, possession, manufacture, consumption, use, or cultivation of any of the above articles mentioned in clauses (b) and (e);

(g) regulating the periods and localities for which the licences may be granted for the wholesale or retail vend of any of the above articles mentioned in clause (b);

(h) providing for the consulting of public opinion and prescribing the procedure to be followed and the matters to be ascertained before any licence, permit, pass or authorization for the vend, consumption or use of any of the above articles mentioned in clause (b) is granted to any person or in any locality;

(i) prohibiting and regulating the employment by the licence holder of any person or classes of persons to assist him in his business in any capacity whatsoever;

(j) prescribing the manner in which the juice from a cocoanut, brab, date or any kind of palm tree is to be treated for the purpose of preventing fermentation;

(k) prescribing the persons or classes of persons to whom any intoxicant, or hemp may or may not be sold or who may be allowed to sell, purchase or use;

(l) for the prevention of drunkenness, gambling or disorderly conduct in or near any licensed premises and the meeting and remaining of persons of bad character on such premises;

(m) regulating the grant of expenses to persons called on to give information in investigations in respect of offences under this Act, and of compensation to persons charged with offences punishable under this Act and acquitted;

(n) regulating the printing, publishing or otherwise displaying or distributing any advertisement or other matter commending, soliciting the use of, or offering any intoxicant, hemp or calculated to encourage or incite any individual or class of individuals or the public generally to commit an offence under this Act or to commit a breach or evade the provisions of any rule or order made thereunder or the conditions of any licence, permit, pass or authorization issued thereunder;

(o) regulating within the Province the circulation, distribution or sale of newspaper, news-sheet, book, leaflet, booklet, or other publication whether printed or published containing any advertisement or matter which is prescribed or which commends, solicits the use of, or offers any intoxicant, or hemp to be forfeited to His Majesty;

(p) imposing restrictions and conditions on buyers of intoxicant including provision for compelling them to sign entries pertaining to the purchase of intoxicant by them;

(q) prescribing the specifications and test in respect of the purity of molasses;

(r) regulating the taking of samples of molasses;

(*s*) prescribing the powers, functions and duties of Prohibition Offcers, Committees and Medical Boards and the fees and allowances payable to the members of the Committees and Medical Boards.

(*t*) implementing generally the policy of prohibition.

(*3*) The power to make rules under this section shall be subject to the condition of previous publication :

Provided that any such rules may be made without previous publication, if the Provincial Government considers that they should be brought into force at once.

Commissioner's powers to make regulations.

144. (*1*) The Commissioner may make regulations, not inconsistent with the provisions of this Act or rules,—

(*a*) regulating, as the case may be, the manufacture, supply or storage of any intoxicant or hemp, mhowra flowers or molasses including—

(*i*) the erection, inspection, supervision, management and control of any place for the manufacture, supply or storage of such article, and the fittings, implements and apparatus to be maintained therein ;

(*ii*) the cultivation of hemp and the collection of the spontaneous growth of such plant and the preparation of any intoxicating drug from such growth and the storage and supply of such hemp or intoxicating drug ;

(*iii*) the storage and supply of opium ;

(*iv*) the tapping of toddy producing trees and the drawing of toddy from such trees ;

(*v*) the bottling of liquor ;

(*b*) regulating the deposit of any intoxicant, hemp, opium, mhowra flowers or molasses in a warehouse and the removal of such articles from any such warehouse or from any distillery or brewery ;

(*c*) prescribing in the case of an intoxicant or opium the way in which the duty on such article shall be levied ;

(*d*) prescribing the scale of fees or the manner of fixing the fees payable in respect of any privilege, licence, permit, pass or authorization or of any storage of any intoxicant, hemp, opium, mhowra flowers or molasses ;

(*e*) regulating the time, place and manner of payment of any duty or fees ;

(*f*) prescribing the restrictions under which and the conditions on which any licence, permit, pass or authorization may be granted, including—

(*i*) the prohibition of the admixture with any intoxicant of any substance deemed to be noxious or objectionable ;

(*ii*) the fixing of the strength, price or quantity in excess of or below which any intoxicant, mhowra flowers or molasses shall not be sold or supplied, and the quantity in excess of which denatured spirit shall not be possessed and the prescription of a standard of quality for any intoxicant, mhowra flowers or molasses ;

(*iii*) the prohibition of sale of any intoxicant or hemp except for cash ;

(*iv*) the prescription of the days and hours during which any licensed premises may or may not be kept open and provisions for the closure of such premises on special occasions ;

(*v*) the prescription of the nature of the premises on which any intoxicant may be sold and the notices to be exposed at such premises ;

(*vi*) the prescription of the accounts to be maintained and the returns to be submitted by licence holders or permit holders;

(*vii*) the regulation or prohibition of the transfer of licences;

(*viii*) the writing of the names and addresses and the taking of signatures of purchasers in the register of sale of any intoxicant, hemp, opium or mhowra flowers;

(*g*) (*i*) declaring the processes by which spirits shall be denatured in particular areas, or for particular purposes,

(*ii*) for causing such spirits to be denatured through the agency or under the supervision of the servants of the Crown,

(*iii*) for ascertaining whether such spirits have been denatured;

(*h*) providing for the destruction or other disposal of any intoxicant declared to be unfit for use;

(*i*) regulating the disposal of confiscated or forfeited articles;

(*j*) prescribing the occasions on which special orders may be granted for the sale by retail of quantities of liquor or intoxicating drugs, or opium other than those which are prescribed in any notification issued under this Act and the conditions on which such sales may be made;

(*k*) prescribing the amount of security to be deposited by the holder of the licence, permit, pass or authorization for the performance of the conditions for the same;

(*l*) providing for the maintenance by the holders of licences, permits, passes or authorizations of the registers of sales, purchases, possession, consumption or use and the particulars to be entered in the register;

(*m*) regarding any other matter which the Provincial Government may, by notification in the *Official Gazette*, direct him to prescribe for the purposes of carrying out the provisions of this Act.

(*2*) The regulations made under this section shall be published in the *Official Gazette*.

Officers and persons acting under this Act to be public servants.

145. All officers and persons empowered to exercise any powers or to perform any functions under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Bar of Proceedings.

146. No suit or proceeding shall lie against the Crown or against any Prohibition, Police, or other officers or against any person empowered to exercise powers or to perform functions under this Act, for anything in good faith done or purporting to be done under this Act.

Provisions of this Act not to apply to import or export across customs frontier.

147. For removal of doubts it is hereby declared that nothing in this Act shall be deemed to apply to any intoxicant or other article in repect of its import or export across the customs frontiers as defined by the Dominion Government.

Repeal and amendments.

148. (*1*) The enactments specified in Schedule I are hereby repealed to the extent specified in the fourth column thereof and those specified in Schedule II

are hereby amended to the extent specified in the fourth column thereof.

(2) But nothing in this Act or any repeal or amendment made thereby shall affect or be deemed to affect—

(*i*) any right, title, obligation or liability already acquired, accrued or incurred before the commencement of this Act,

(*ii*) any legal proceeding or remedy in respect of any right, title, interest obligation or liablity or anything done or suffered before the commencement of this Act and any such proceeding shall be continued and disposed of, as if this Act was not passed,

Bom. V of 1878. (*iii*) the levy of any duties under section 29-A of the Bombay Abkari Act, 1878, and the recovery of any duties or fees leviable under any other provisions of the Acts hereby repealed, and all such duties or fe es shall be levied or recovered as the case may be, as if this Act was not passed.

(3) Any appointment, notification, notice, order, rule or form, made, or issued under any of the enactments repealed by this Act shall continue to be in force and deemed to have been made, granted or issued under the provisions of this Act, in so far as such appointment, notification, notice, order, rule or form is not inconsistent with the provisions of this Act, unless and until it is superseded by any appointment, notification, notice, order, rule or form made or issued under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorized in the enactments repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name.

(4) Any licence, permit, pass, authorization or permission granted or issued under any of the enactments repealed by this Act shall continue to be in force and shall be deemed to have been granted or issued under the corresponding provisions of this Act.

SCHEDULE I.

(*See* SECTION 148.)

Year. 1	No. 2	Short title. 3	Extent of repeal. 4
1878	... 1	The Opium Act, 1878, in its application to the Province of Bombay.	The whole.
1878	... V	The Bombay Abkari Act, 1878.	... All the provisions except section 29-A.
1947	... XXX	The Bombay Molasses Act, 1947	... The whole.

SCHEDULE II.

(*See* SECTION 148.)

Year. 1	No. 2	Short title. 3	Extent of amendments. 4
1890 ...	IV	The Bombay District Police Act, 1890.	1. In section 46—
			(*a*) in sub-section (*4*), for clauses (ii) and (iii), the following clauses shall be substituted, namely :— "(ii) section 65 or 68 of the Bombay Prohibition 1949."; Bom. XXV of 1949.
			(*b*) in sub-section (*6*) for the words and figures "under the Bombay Abkari Act, 1878 or the Opium Act, 1878," the words and figures "under the Bombay Prohibition Act, 1949" shall be substituted. Bom. XXV of 1949.
			2. Section 61 AA shall be deleted.
1902 ...	IV	The City of Bombay Police Act, 1902.	1. In section 27—
			(*a*) in sub-section (*2*), for the words and figures "under the Bombay, Abkari Act, 1878 or the Opium Act, 1878," the words and figures "under the Bombay Prohibition Act, 1949" shall be substituted; Bom. XXV of 1949.
			(*b*) in sub-section (*2-A*) for clauses (ii) and (iii), the following clause shall be substituted, namely :— "(ii) section 65 or 68 of the Bombay Prohibition Act, 1949.". Bom. XXV of 1949.
			2. Section 122A shall be deleted.

THE BOMBAY REPATRIATED PRISONERS ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Custody and removal of repatriated prisoners.
4. Convicted prisoners.
5. Prisoners undergoing trial before repatriation.
6. Prisoners repatriated while in police custody.
7. Delegation of powers.
8. Powers of Provincial Government in relation to prisoners detained for reasons of security.
9. Jurisdiction of the High Court.
10. Powers of Provincial Government to suspend, remit or commute sentences.
11. Lawfulness of custody and retaking upon escape.
12. Powers to make rules.

BOMBAY ACT No. XXVII OF 1949.[1]

[THE BOMBAY REPATRIATED PRISONERS ACT, 1949.]

[*1st June 1949*]

An Act to provide for the reception, detention and trial of prisoners transferred from Pakistan to the Province of Bombay.

WHEREAS it is expedient to provide for the reception, detention and trial of prisoners transferred from Pakistan to the Province of Bombay; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Repatriated Prisoners Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "prison" includes a central, district or subsidiary jail or judicial lock-up, and every place which is used as a place of detention for persons who have been arrested or detained under any law for the time being in force;

(*b*) "prisoner" includes every person who is detained in a prison by order of a competent authority not being a Civil Court;

(*c*) "repatriated prisoner" means a prisoner who being in custody in a prison or other place of detention in Pakistan has been conveyed and delivered by a duly authorised officer to any officer of this Province.

Custody and removal of repatriated prisoners.

3. The Provincial Government may, by general or special order, specify the place at which and, either by name or designation, the officer by whom, custody of a repatriated prisoner, together with any article or records which may have been sent along with him, shall be received and the prison to which he is to be removed, and the officer in charge of such prison shall thereupon receive such prisoner and any article or records which may be produced along with him.

Convicted prisoners.

4. The officer in charge of the prison shall detain in custody a repatriated prisoner who, before his repatriation, was a convict undergoing a sentence in a prison—

(*a*) according to the tenor of the warrant, writ or order of commitment to prison, if any, relating to such prisoner, or

(*b*) failing such warrant, writ or order as aforesaid in accordance with the order of the Provincial Government.

Prisoners undergoing trial before repatriation.

5. (*1*) The Provincial Government may by order direct any Court, other than the High Court, to enquire into or try any case which may have been pending against a repatriated prisoner immediately before his repatriation :

[1]For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Part V, page 66.

Provided that—

(*a*) the offence charged against such prisoner is also an offence under the law in force in the Province; and

(*b*) such Court would have been competent to try such offence if it had been committed within the local limits of its jurisdiction.

(*2*) On the making of an order under sub-section (*1*), the Court specified in the order shall proceed to enquire into or try such case according to law, as if the offence to which it relates had been committed within the local limits of its jurisdiction, and all the provisions of the Code of Criminal Procedure, 1898, and of all other laws in force in this Province shall, so far as may be, apply to such proceedings. V of 1898.

(*3*) In any proceedings under sub-section (*2*), all evidence, both oral and documentary, which has been duly received in the proceedings against the repatriated prisoner held prior to his repatriation, or the copies of such evidence certified under section 76 of the Indian Evidence Act, 1872, may be treated as evidence in the case for all purposes subject to the provisions of the Indian Evidence Act, 1872. I of 1872. I of 1872.

Prisoners repatriated while in police custody.

6. (*1*) The Provincial Government may by order in respect of any repatriated prisoner who, immediately before repatriation, was held under arrest or detention in police custody during or after completion of a police investigation, specify a Presidency Magistrate or Magistrate of the first class, as the case may be, who shall have and exercised jurisdiction for the purposes of this section.

(*2*) Every repatriated prisoner in respect of whom an order has been made under sub-section (*1*) shall be produced without dealy before the Magistrate specified in the order and such Magistrate may take cognizance of any offence that such repatriated prisoner may be reported by a police officer to have committed and may grant him bail.

(*3*) Where the repatriation was effected before completion of the police investigation or the Magistrate is of the opinion that the evidence is deficient, the repatriated prisoner shall be released upon his entering into a bond, with or without sureties, as the Magistrate may direct, to appear if and when so required, and in the meantime the Magistrate may order such further enquiry into the substance of the allegations as he thinks fit.

(*4*) In every case falling under sub-section (*3*), the Magistrate may, if he is satisfied at any stage that there is no prospect of securing sufficient evidence to justify commencement of proceedings against the repatriated prisoner, direct that such prisoner be discharged from his bond.

Delegation of powers.

7. The Provincial Government may by order direct that the powers conferred on it by section 3, 4, 5 or 6 shall be also exercisable by such officer or authority and in such circumstances and under such conditions, if any, as may be specified in the order.

Powers of Provincial Government in relation to prisoners detained for reasons of security.

8. In relation to any repatriated prisoner whose detention immediately before his repatriation had been ordered under any law authorising preventive detention for reasons connected with the maintenance of public order, the Provincial Government shall have the same power in respect of extension or reduction of the term of detention as it possesses in relation to persons detained under section 2 of the Bombay Public Security Measures Act, 1947. Bom. VI of 1947.

9. The High Court shall have, in relation to a repatriated prisoner, the same jurisdiction which it has in relation to a person who has been arrested or detained within the limits of its appeallate jurisdiction in the same circumstances in which such prisoner was arrested or detained immediately before his repatriation. Jurisdiction of the High Court.

10. The Provincial Government shall have the same powers to suspend, remit or commute a sentence of punishment awarded to a repatriated prisoner whether before or after his repatriation, as it possesses in relation to persons who have been sentenced in the Province for offences committed within the Province. Powers of Provincial Government to suspend, remit or commute sentences.

11. It shall be lawful for any officer to whom an order under section 3 or under section 4 is directed to receive, to hold in custody, convey and deliver the repatriated prisoner, named in the order as directed therein and if any such prisoner escapes out of any custody to which he may be delivered in pursuance of the order, he may be retaken as a person accused or convicted of an offence may be retaken upon an escape. Lawfulness of custody and retaking upon escape.

12. The Provincial Government may, by notification in the *Official Gazette*, make rules to carry out the purposes of this Act. Powers to make rules.

THE BOMBAY MERGED AREAS (AMENDMENT OF LAWS) ACT, 1949.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Amendment of Bombay Agricultural Debitors Relief Act, 1947, in its application to certain merged areas.
4. Amendment of Bombay Agricultural Debtors Relief Act, 1947, in its application to other merged areas.
5. Amendment of Bombay Tenancy and Agricultural Lands Act, 1948, in its application to certain merged areas.
6. Amendment of Bombay Tenancy and Agricultural Lands Act, 1948, in its application to other merged areas.

THE SCHEDULE.

BOMBAY ACT No. XXX OF 1949.[1]

[THE BOMBAY MERGED AREAS (AMENDMENT OF LAWS) ACT, 1949.]

[*7th June 1949.*]

An Act to amend certain laws in their application to the areas merged in the Province of Bombay.

WHEREAS it is expedient to amend certain laws in their application to the areas merged in the Province of Bombay; It is hereby enacted as follows:—

1. This Act may be called the Bombay Merged Areas (Amendment of Laws) Act, 1949. Short title.

2. In this Act, unless there is anything repugnant in the subject or context,— Definitions.

(*1*) "Merged areas" means the areas specified in Parts I and II of the Schedule which are included in the Province of Bombay by the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, or the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, as the case may be;

(*2*) "Schedule" means the Schedule appended to this Act.

Amendment of Bombay Agricultural Debtors Relief Act, 1947, in its application to certain merged areas.

3. Notwithstanding anything contained in the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, the Bombay Agricultural Debtors Relief Act, 1947, shall, in its application to the merged areas specified in Part I of the Schedule, be subject to the following modifications, namely:— Bom. XXVIII of 1947.

In the said Act,—

(*1*) in section 2,—

(*a*) in clause (2), "co-operative society" shall mean a society registered under any of the provisions corresponding to those contained in the Bombay Co-operative Societies Act, 1925, in force in any of the merged areas or a society registered under the said Act; Bom. VII of 1925.

(*b*) in clause (5),—

(*i*) for the figures, letters and word "30th January 1940", wherever they occur, the figures, letters and word "1st January 1948" shall be substituted;

(*ii*) for the words "the date of the coming into operation of this Act or of the establishment of the Board concerned under the repealed Act" wherever they occur, the words, figures and letters "the 15th day of September 1948" shall be substituted;

(*2*) in section 4, for sub-section (*1*) the following sub-section shall be substituted, namely:—

"(*1*) Any debtor ordinarily residing in any local area or his creditor may make an application before the 30th September 1949 to the Court for the adjustment of his debts";

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1949, Pt. V, page 57.

(*3*) in section 7, for the figures, letters and word "1st January 1938" the figures, letters and word "1st January 1948" shall be substituted;

(*4*) in section 22, the following proviso shall be added at the end, namely :—

"Provided further that where any amount due to a creditor is determined by a competent tribunal or authority under any law in force in a merged area relating to the conciliation or adjustment of the debts of agriculturists corresponding to this Act, the amount of determined shall be binding on the parties";

(*5*) in section 23, in the proviso, after the figures "1879" the words "or any enactment corresponding thereto" shall be inserted;

(*6*) in section 24, in sub-section (*2*), for the figures, letters and word "1st August 1947" the figures, letters and word "30th September 1949" shall be substituted;

(*7*) in section 25,—

(*a*) in clause (*i*), the words and figure "or by a Board established under section 4 of the repealed Act" shall be deleted;

(*b*) in clause (*ii*) for the figures, letters and words "15th day of February 1939" the figures, letters and word "1st January 1948" shall be substituted;

(*8*) in section 32, in sub-section (*2*),—

(*a*) for clause (*c*), the following clause shall be substituted, namely :—

"(*c*) loans given by resource societies or by persons authorised to advance loans under section 54 for the financing of crops or for seasonal finance,";

(*b*) in the Explanation the words "under the repealed Act" and the words "under this Act" shall be deleted;

(*9*) in section 56, in sub-section (*1*),—

(*a*) for the words and figures "the Dekkhan Agriculturists' Relief Act, 1879 by the Bombay Agricultural Debtors Relief Act, 1939, the first mentioned Act" the words and figures "any enactment coresponding to the Dekkhan Agriculturist Relief Act, 1879, in force in any of the merged areas, such enactment" shall be substituted; XVII of 1879. Bom. XXVIII of 1939.

(*b*) the words and brackets "with effect from the date of the coming into operation of this Act (hereafter in this section referred to as the said date)" shall be deleted; XVII of 1879.

(*c*) for the words "for a period of three years from the said date" the words, figures and letters "up to the 26th day of May 1950" shall be substituted;

(*d*) for the first proviso, the following proviso shall be substituted, namely :—

"Provided that any proceeding in or out of any suit instituted on or before the 26th May 1950 shall be continued and disposed of after the said date, as

XVII of 1879.

if the enactment corresponding to the Dekkhan Agriculturists' Relief Act, 1879, had continued in force after the said date ".

Bom. XXVIII of 1947.

4. The Bombay Agricultural Debtors Relief Act, 1947, shall, in its application to the merged areas specified in Part II of the Schedule, be subject to the following modifications, namely :—

Amendment of Bombay Agricultural Debtors Relief Act, 1947, in its application to other merged areas.

In section 56 of the said Act, in sub-section (*1*),—

(*1*) for the words beginning with the words " On the expiry " and ending with the words " to have force ", the following shall be substituted, namely:—

XVII of 1879.

" Notwithstanding the repeal of any enactment corresponding to the Dekkhan Agriculturists' Relief Act, 1879, in force in any of the merged areas, such enactment shall, in so far as it applies to transactions and proceedings to which this Act does not apply, be deemed to have been re-enacted and shall continue in force up to the 26th day of May 1950 :

Provided that any proceeding in or out of any suit instituted on or before the 26th May 1950 shall be continued and disposed of after the said date, as if the enactment corresponding to the Dekkhan Agriculturists' Relief Act, 1879, had continued in force after the said date " ;

XVII of 1879.

(*2*) for the words " Provided that " the words " Provided also that " shall be substituted.

Bom. LXVII of 1948.

5. Notwithstanding anything contained in the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1947, the Bombay Tenancy and Agricultural Lands Act, 1948, shall, in its application to the merged areas specified in Part I of the Schedule, be subject to the following modifications, namely :—

Amendment of Bombay Tenancy and Agricultural Lands Act, 1948, in its application to certain merged areas.

In the said Act,—

(*1*) in section 2, in clause (*3*), " co-operative society " shall mean a society registered under any of the provisions corresponding to those contained in the Bombay Co-operative Societies Act, 1925, in force in any of the merged areas or a society registered under the said Act ;

Bom. VII of 1925.

(*2*) in column 4 of the Schedule appended to the said Act,—

(*a*) in section 3A of the Bombay Tenancy Act, 1939, referred to therein, for the words and figures " the eighth day of November 1947 " the words and figures " the nineteenth day of January 1949 " shall be substituted ;

(*b*) in the proviso to sub-section (*1*) of section 4 of the Bombay Tenancy Act 1939, referred to therein,—

(*i*) reference to " section 9 of the Bombay Small Holders Relief Act, 1938 " shall be read as reference to " any enactment corresponding to section 9 of the Bombay Small Holders Relief Act, 1938, if any, in force in any of the merged areas ; "

Bom. VIII of 1938.

(*ii*) for the words and figures " the eighth day of November 1946 " the words and figures " the nineteenth day of January 1948 " shall be substituted ;

(*c*) in sub-section (*2*) of section 4 of the Bombay Tenancy Act, 1939, referred to therein,—

(*i*) for the words and figures "the eighth day of November 1946" the words and figures "the nineteenth day of January 1948" shall be substituted;

(*ii*) in clause (*b*) (*i*) for the figures, letters and words "31st day of May 1947" the figures, letters and words "31st day of May 1949" shall be substituted;

(*iii*) in clause (*b*) (*ii*), for the figures, letters and words "1st day of June 1947" the figures, letters and words "1st day of June 1948" shall be substituted.

Amendment of Bombay Tenancy and Agricultural Lands Act, 1948, in its application to other merged areas.

6. Notwithstanding anything contained in the Bombay (Enlargement of Area and Alteration of Boundaries) Order, 1948, the Bombay Tenancy and Agricultural Lands Act, 1948, shall, in its application to the merged areas specified in Part II of the Schedule, be subject to the following modifications, namely :— Bom. LXVII of 1948.

In the said Act,—

(*1*) in section 2, in clause (*3*), "co-operative society" shall mean a society registered under any of the provisions corresponding to those contained in the Bombay Co-operative Societies Act, 1925, in force in any of the merged areas or a society registered under the said Act; Bom. VII of 1925.

(*2*) in column 4 of the Schedule appended to the said Act,—

(*a*) in section 3A of the Bombay Tenancy Act, 1939, referred to therein, for the words and figures "the eighth day of November 1947" the words and figures "the tenth day of June 1949" shall be substituted;

(*b*) in the proviso to sub-section (*1*) of section 4 of the Bombay Tenancy Act, 1939, referred to therein,—

(*i*) reference to "section 9 of the Bombay Small Holders Relief Act, 1938", shall be read as reference to "any enactment corresponding to section 9 of the Bombay Small Holders Relief Act, 1938, if any, in force in any of the merged areas;" Bom. VIII of 1938.

(*ii*) for the words and figures "the eighth day of November 1946" the words and figures "the tenth day of June 1948" shall be substituted;

(*c*) in sub-section (*2*) of section 4 of the Bombay Tenancy Act, 1939 referred to therein,—

(*i*) for the words and figures "the eighth day of November 1946" the words and figures "the tenth day of June 1948" shall be substituted;

(*ii*) in clause (*b*) (*i*) for the figures, letters and words "31st day of May 1947" the figures, letters and words "31st day of May 1949" shall be substituted;

(*iii*) in clause (*b*) (*ii*), for the figures, letters and words "1st day of June 1947" the figures, letters and words "1st day of June 1949" shall be substituted.

THE SCHEDULE.

PART I.

1. The areas comprised in the Estates which on the first day of July 1947 were included in the Vatrak Kantha thana of the Baroda, Western India and Gujarat States Agency and were known by the following names :—

(*i*) Ged, (*ii*) Polajpur, (*iii*) Morvad, (*iv*) Koprupur, (*v*) Mahisa, (*vi*) Porda and (*vii*) Dana.

2. The area known as Dangs.

PART II.

The areas comprised in the following Estates and Talukas of the Western India and Gujarat States region :—

Rewa Kantha Region.

1. Agar.
2. Chhaliar.
3. Gad-Boriad.
4. Mandwa.
5. Naswadi.
6. Palasni.
7. Shanor.
8. Sihora.
9. Uchad.
10. Umeta.
11. Vajiria.

Sankheda Mewas.

12. Vora.
13. Alwa.
14. Wasan Wirpur.
15. Wasen Sewada.
16. Chorangla.
17. Vanmala.
18. Bhilodia.
19. Sindhiapura.
20. Jiral.
21. Kamsoli.
22. Rampura.
23. Pantalavdi.
24. Nangam.
25. Chudeswar.
26. Bihora.
27. Bengan.
28. Nalia.
29. Vadia-Virampura.
30. Dudhpur.

Pandu Mewas.

31. Anghad.
32. Pandu.
33. Mevli.
34. Dhari.
35. Raika.
36. Dodka.
37. Gothda.
38. Kanoda.
39. Poicha.
40. Itwad.
41. Vakhtapur.
42. Varnol Mal.
43. Gotardi.
44. Moka-Paginu-Mauda.
45. Moti Varnoli.
46. Rajpur.
47. Jesar.
48. Amrapur.
49. Jumkha.
50. Kasla-Paginu-Mauda.
51. Nani Varnoli.
52. Nahara.

Banas Kantha Region.

53. Adesar.
54. Deodar (Waghela Himatsinhji).
55. Deodar (Waghela Viramsinhji Khanji).
56. Terwada.
57. Thara.
58. Varahi (Malek Shri Hussinyavar-Khanji).
59. Varahi (Malek Shri Muridkhanji).

Kankrej Thana.

60. Sihori.
61. Un.
62. Kevalpuri Thali.
63. Arnivada.
64. Ranekpur.
65. Indermana.
66. Manpur.
67. Thara Saduji Vas.
68. Bhalgam.
69. Khengarpur.
70. Runi.
71. Shirwada.
72. Kharia.
73. Madkol.
74. Khimana.
75. Bhadramali.
76. Dasana Vas.
77. Lunpur.
78. Zabadia.
79. Sadarpur.
80. Samau Nana Vas.
81. Samau Mota Vas.
82. Bukoli.
83. Raner.
84. Kamboi.
85. Ranawada.
86. Anganwada.
87. Akoli.
88. Dugrasan.
89. Ruppura.
90. Umri.
91. Balochpur.
92. Kakar.
93. Vada.
94. Chemla.
95. Dev Darbar.

Suigam Sub-Thana.

96. Suigam.
97. Radosan.
98. Nalodar.
99. Jalana.
100. Kanothi.
101. Asara.
102. Nesda.
103. Golap.
104. Mamna.
105. Koreti.

Deodar Thana.

106. Bhabhar Nava Vas.
107. Bhabhar Juna Vas.
108. Ujjanwada.
109. Panvi.
110. Ganjesar.
111. Chatar.
112. Kaprupur.
113. Karela.
114. Oghadpura.
115. Gagun.
116. Mojru.
117. Surana.
118. Delvada.
119. Sanadar.
120. Malukpur.
121. Kapdi Dev.
122. Vatam Juna Vas.
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BOMBAY ACT No. XXXII OF 1949.[1]

[THE BOMBAY BHAGDARI AND NARWADARI TENURES ABOLITION ACT, 1949.]

[*23rd June 1949.*]

An Act to abolish the Bhagdari and Narwadari tenures in the Province of Bombay.

WHEREAS it is expedient to abolish the Bhagdari and Narwadari tenures which prevail in certain parts of the Province of Bombay and to provide for certain other purposes hereinafter appearing; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Bhagdari and Narwadari Tenures Abolition Act, 1949.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may by notification in the *Official Gazette* specify.

Abolition of Bhagdari and Narwadari tenures.

2. With effect from and on the date on which this Act comes into force,—

(*1*) the Bhagdari and Narwadari tenures shall, wherever they prevail, be deemed to have been abolished;

(*2*) all the incidents of the said tenures attaching to any land held on such tenures shall be deemed to have been extinguished;

Bom. V of 1862.

(*3*) any declaration made by the Provincial Government under section 6 of the Bhagdari and Narwadari Act, 1862, shall be deemed to have been cancelled.

Holder of land forming part of bhag, narwa or recognised sub-division and persons in lawful possession of majmun to be deemed to be occupants.

3. (*i*) Every holder of any land forming part of a bhag, narwa or share in a bhagdari or narwadari village or any homestead, building site (gabhan) or premises appurtenant or appendant to any such bhag, narwa or share or a recognised sub-division of a bhag, narwa or share, and

(*ii*) every person lawfully in possession of any land forming part of a gam or pati majmun in a bhagdari or narwadari village,

immediately before the coming into force of this Act, shall be deemed to be an occupant within the meaning of the Bombay Land Revenue Code, 1879, in respect of such land in his possession and shall be primarily liable to the Provincial Government for the payment of land revenue due in respect of such land and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the said Code or any other law for the time being in force.

Bom. V of 1879.

All other majmun land and other property to be property of the Crown.

4. For the removal of doubt, it is hereby declared that all land forming part of a gam or pati majmun in a bhagdari or narwadari village other than the land referred to in clause (*ii*) of section 3, all waste and uncultivated land and all other kinds of property referred to in section 37 of the Bombay Land Revenue Code, 1879, situated in a bhagdari or narwadari village, which are not the property of

Bom. V of 1879.

[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1949, Part V, page 139.

any individual or of any aggregate of persons capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are together with all rights in or over the same or appertaining thereto, the property of the Crown, and it shall be lawful to dispose of or set apart the same for the authority in the manner and for ths purpose provided in section 37 or 38 of the Bombay Land Revenue Code, 1879, as the case may be. Bom. V of 1879.

Alienation so far made not to be invalid.

5. Any alienation, assignment, mortgage of, or any charge or incumbrance on, any bhag, narwa or share in any bhagdari or narwadari village other than a recognised sub-division of such bhag, narwa or share or any homestead, building site (gabhan) or premises appurtenant or appendant to any such bhag, narwa or share made or created before the coming into force of this Act in contravention of the provisions of section 3 of the Bhagdari and Narwadari Act, 1862, shall not be or ever to have been deemed to be invalid merely on the ground that it was made or created in contravention of the said section: Bom. V of 1862.

Provided that the Collector or the other revenue officer has not made an order removing the person in whose favour such alienation, assignment, mortgage, charge or incumbrance was made or created from the possession of such land, and such order has not been set aside by a competent court before the coming into force of this Act.

Custom of female heirs excluded by male heirs void.

6. Any custom, usage or practice relating to the succession to any bhag, narwa or a bhagdari or narwadari village or any homestead, building site (gabhan) or premises appurtenant or appendant to such bhag, narwa or village whereby contrary to the personal law governing the parties, the female heirs were excluded absolutely or in favour of more distant male heirs, shall, to the extent of repugnancy, be deemed to be void and of no effect from and after the date on which this Act comes into force.

Saving of recognised alienation.

7. Nothing in section 3 of the Exemptions from the Land Revenue(No.2)Act,1863, shall affect the rights of any person in respect of any land in a Bhagdari or Narwadari village, the alienation of which land in favour of such person may have been recognised under the provisions of a special contract with the Crown or any law for the time being in force. Bom. VII of 1863.

Method of compensation for the extinguishment or modification of any rights in land.

8. (*1*) If any person is aggrieved by any of the provisions of this Act as extinguishing or modifying any of his rights in land and if such person proves that such extinguishment or modification amounts to the transference to public ownership of land or any right in or over such land, such person may apply to the Collector for compensation.

(*2*) Such application shall be made in a prescribed form and shall be made within six months from the date on which this Act comes into force.

(*3*) The Collector shall, after holding a formal inquiry in the manner provided by the Bombay Land Revenue Code, 1879, award such compensation as he deems reasonable, and adequate. In deciding the amount of the compensation the Collector shall be guided by the provisions of sub-section (*1*) of sections 23 and 24 of the Land Acquisition Act, 1894. Subject to the provisions of sub-section (*4*), the award of the Collector shall be final. Bom. V of 1879. I of 1894.

(*4*) Any person aggrieved by the award of the Collector may appeal to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939.

Bom. XII of 1939.

(*5*) In deciding appeals under sub-section (*4*) the Bombay Revenue Tribunal shall exercise all the powers which a Court has and follow the same procedure which a Court follows in deciding appeals from the decree or order of an original Court under the Code of Civil Procedure, 1908.

V of 1908.

9. The Bhagdari and Narwadari Act, 1862, and section 117 of the Bombay Land Revenue Code, 1879, are hereby repealed. The repeal of the said enactments and the provision declaring any incident of the Bhagdari and Narwadari tenures to have been extinguished shall not affect,— Repeal.

Bom. V of 1862. Bom. V of 1879.

(*a*) any right, title, interest, obligation or liability already acquired, accrued, or incurred before the date on which this Act comes into force ;

(*b*) any legal proceeding, or remedy in respect of any such right, title, interest, obligation or liability or anything done or suffered to be done before such date.

10. The Provincial Government may make rules for the purpose of carrying out the provisions of this Act. Such rules shall be subject to the condition of previous publication and shall when finally made be published in the *Official Gazette*. Rules.

11. The words and expressions used in this Act shall have the meanings assigned to them in the Bombay Land Revenue Code, 1879. Interpretation.

Bom. V of 1879.

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CORRIGENDA TO BOMBAY CODE, VOLUME II.

Page 1439, in section 6(1), in line 1, *for* " the admission " *read* " admission ".
Page 1455, in footnote 6, *for* " *ibid* " *read* " by the Adaptation of Indian Laws Order in Council ".
Page 1463, in section 35(4), in line 5, *for* " members " *read* " member ".
Page 1471, in section 41(2), in line 1, *for* " propositions" *read* " proposition ".
Page 1473, in footnote 4, *for* " *ibid* " *read* " by Bom. 14 of 1934 ".
Page 1476, in section 53, in line 2, *for* " tentable " *read* " tenantable ".
Page 1477, in section 54(*b*), in line 3, *for* " puposes " *read* " purposes ".
Page 1478, in section 57 (*e*), in line 4, *read* the words beginning with " shall on conviction " and ending with " after conviction " as a separate sub-paragraph.
Page 1478, in section 59(1), in line 3, *for* " with reasons " *read* " with the reasons ".
Page 1483, in section 71, in line 5, *for* " he damage " *read* " the damage ".
Page 1485, in section 75(*n*), in second proviso, in line 1, *for* " in local board " *read* " in a local board ".
Page 1488, in section 86(2), in line 1, *for* " or on " *read* " on or ".
Page 1492, in section 99(*b*), *read* the words beginning with " impose " and ending with "Province " as a separate sub-paragraph.
Page 1498, in section 114, in line 7, *for* " due from " *read* " due for ".
Page 1500, in section 116A, in line 4, *for* " direct than " *read* " direct that ".
Page 1516, in section 2, in line 4, *for* " enclosed or " *read* " enclosed ".
Page 1519, in section 3D(4), in line 3, *for* " tenancy to " *read* " tenancy to, with,".
Page 1547, in section 3(*a*), in line 2, *for* " by-law " *read* " by-laws ".
Page 1549, in section 7(1), in line 4, *for* " member " *read* " members ".
Page 1549, in section 7(2), in line 1, *for* " on the name " *read* " in the name ".
Page 1554, in section 24(1) (*a*), in line 6, *for* " supplies to or purchase by " *read* " supplied to or purchased by ".
Page 1558, in section 33A, in line 3, *for* " principal debentures " *read* " principal of debentures ".
Page 1573, in section 64L(2), in line 2, *for* " the thirty days " *read* " thirty days ".
Page 1579, in section 72B, in line 3, *for* " shall be deemed " *read* " shall not be deemed ".
Page 1633, in section 61(1) (*n*), in line 6, *for* " storage or goods " *read* " storage of animals or goods ".
Page 1634, in line 24, *for* " (3) " *read* " (*z*) ".
Page 1636, in section 63(2), in line 5, *for* " it is " *read* "it ".
Page 1637, in section 64(3) (*c*), in line, 2 *for* " has been " *read* " has been given ".
Page 1643, in section 73, in proviso (*b*) (*ii*), in line 1, *for* " person " *read* " persons ".
Page 1645, in section 77A(3) in line 5, *for* " increased " *read* " so increased ".
Page 1648, in section 83(1), in line 2, *for* " rate or " *read* " rate on ".
Page 1649, in section 86(4) in line 7, *for* " tenants " *read* " enant ".
Page 1650, in section 90(2), in line 4, *for* "other penalty or liability " *read* " liability ".
Page 1651, in section 91(1) (*a*), in line 2, *for* " an alterations " *read* " and alterations ".
Page 1663, in section 123(5) (*a*) (*ii*), in line 1, *for* " provisionsal " *read* "provisional ".
Page 1665, in section 124 (1) (*b*) (*ii*), in line 2, *for* " expected " *read* " executed ".
Page 1669, in section 134(1), in line 8, *for* " privide " *read* ' provide ".
Page 1671, in section 143(1), in line 5, *for* " tht " *read* " the ".
Page 1671, in section 143 (1), in line 6, *for* " whicheroofs " *read* " which roofs ".

Page 1723, in section 4A, in line 4, and in footnote 2, *for* "Central Government" *read* "Provincial Government", and in footnote 2 *after* "Council" *read* "read with the Adaptation of Indian Laws (Amendment) Order, 1940.

Page 1724, in section 9(1), *for* the words beginning with "The Chancellor" and ending with "in thi behalf" *read* "[The Governor of Bombay for the time being shall be the Chancellor of the University]".

Page 1724, in section 12(2), in line 2, *for* "Central" *read* "Provincial".

Page 1724, *for* footnote 1 *read* the following:—

"1 This portion was restored by the Adaptation of Indian Laws (Amendment) Order, 1940."

Page 1724, in footnote 2, *for* "*ibid*" *read* "by the Adaptation of Indian Laws Order in Council and for the word "Central" the word "Provincial" was substituted" by the Adaptation of Indian Laws (Amendment) Order, 1940."

Page 1727, in section 17, in lines 1 and 6 and in footnote 2, *for* "Central" *read* "Provincial" and in footnote 2, *after* "Council" *read* "read with the Adaptation of Indian Laws (Amendment) Order, 1940."

Page 1733, in section 32(3), in line 2 and in footnote 2, *for* "Central" *read* "Provincial", and in footnote 2, *after* "*ibid*" *read* "read with the Adaptation of Indian Laws (Amendment) Order, 1940."

Page 1737, in lines 2 and 5 and the last line and in footnote 1, *for* "Central" *read* "Provincial", and in footnote 1, *after* "Council" *read* "read with the Adaptation of Indian Laws Amendment) Order, 1940."

Page 1738, in section 44(1), in line 5, in section 44(2), in lines 2 and 3, and in section 44(5), in line 3, and in footnote 1, *for* "Central" *read* "Provincial" and in footnote 1, *after* "Council" *read* "read with the Adaptation of Indian Laws (Amendment) Order, 1940."

Page 1774, in section 6 (1) (*b*), in line 3, *for* "directly" *read* "directly or".

Page 1777, in section 13 (1) (*a*), in line 3, *for* "roper" *read* "proper".

Page 1786, in section 4 (*a*), in line 1, *for* "licence" *read* "licensee".

Page 1786, in section 4 (*c*), in line 1, *for* "licence" *read* "licensee".

Page 1795, in column under heading "Proper fee" in serial numbers 16 and 17 *for* "135" and "139" *read* "125" and "130", respectively.

Page 1829, in section 12 (1), in line 1, *for* "contacts" *read* "contracts".

Page 1839, in section 13, in line 1, *delete* "[2][Denomination]" and *read* "[2][Denomination]" as marginal note.

Page 1883, in section 36, in line 1, *for* "(3)" *read* "(1)".

Page 1883, in section 36, in the marginal note *for* "residence" *read* "residents".

Page 1889, in section 45 (1) (*c*), in line 2, *for* "Rs. 10" *read* "[4][Rs. 20]".

Page 1923, in section 2, in line 3, *for* "owner" *read* "own".

Page 1929, in section 2(*a*), *for* "Presidency of Bombay, Bombay" *read* "Presidency of Bombay".

Page 1930, in section 6, in line 2, *for* "be general" *read* "by general".

Page 1963, in section 6E(2), in line 2, *for* "may occurred" *read* "may have occurred".

Page 1963, in section 6E(3), in line 6, *for* "along with statement" *read* "along with the statement".

Page 1968, in section 13, in new section 10A(2), in line 2, *for* "sub-section (1)" *read* "under sub-section (1)".

Page 1985, in section 27(4), proviso, in line 4, *for* "reclare" *read* "declare" and in line 5, *for* "ules" *read* "rules".

Page 2121, in section 3 (*a*), in line 1, *for* "Inspectors of Lifts" *read* "Inspector of Lifts".

Page 2129, in section 10, in line 1, *for* "order" *read* "orders".

Page 2150, in section 15 (3), in line 1, *for* "shall raised" *read* "shall be raised".

Page 2153, in section 26 (2) (*c*), in line 1, *for* "vice-chairmen" *read* "vice-chairman".

Page 2153, in section 26 (2) (*c*), in line 2, *for* "this" *read* "their".

Page 2153, in section 26 (2) (*g*), in line 2, *for* "istruments" *read* "instruments".

Page 2154, in section 26 (2) (*o*), in line 3, *for* "esimates" *read* "estimates".

Page 2162, in section 5 (1), in line 3, *for* "delaration" *read* "declaration".

Page 2168, in section 2 (7), in line 1, *for* "land improvement scheme" *read* "a land improvement scheme".

Page 2169, in footnote 3, *for* "34" *read* "s. 4".

Page 2179, in the preamble, in line 3, *for* "grow" *read* "grown".

Page 2179, in section 1 (2), in line 1, *for* "extens" *read* "extends".

Page 2181, in section 4 (1) (*b*), in lines 6 and 7, *for* "five hundred rupees for every subsequent rupees for the first offence and to one thousand offence" *read* "five hundred rupees for the first offence and to one thousand rupees for every subsequent offence".

Page 2205, in the footnote, *for* "*ibid.* s. 5" *read* "by Bom. 16 of 1944, s. 5, *read* with Bom. 2 of 1948, s. 2".

Page 2205, in section 10-A (4), in line 2, for "annual" *read* "annul".

Page 2205, in section 10-A (5), in line 1, *for* "conideration" *read* "consideration".

Page 2205, in section 10-A(7), in line 3, *for* "orered" *read* "ordered".

Page 2205, in section 11 (1), in line 1, *for* "sections" *read* "section".

Page 2206, in section 11 (2), in line 3, *for* "diposed" *read* "disposed".

Page 2206, in section 13 (1), in line 1, *for* "be" *read* "by".

Page 2207, in Schedule I, *for* "12 Lang" *read* "12 [1*]".

Page 2207, in Schedule I, at the end, *read* entry "[2] [Sweet potato (with reference to the holdings of sugar factories)]".

Page 2207, in Schedule II, *for* "1 Cotton" *read* "1 [3*]".

Page 2207, insert the following foo'notes :—

"1 This entry was omitted by G.N., R.C.D. No. 7133/39, dated 8th June 1946.

2. This entry was added by G.N., A and F. D. No. 847-C, dated 20th July 1949.

3. This entry was omitted by G.N., A and R.D.D. No. 847-C, dated 30th May 1949."

Page 2213, *for* the numbers of sections (1) to (7) *read* 1 to 7, respectively.

Page 2214, in section 9, in line 1, for "reconstructon" *read* "reconstruction".

Page 2214, in section 9, second proviso, in line 4, *for* "avilable" *read* "available".

Page 2245, in section 22, in line 2, *for* "releace" *read* "release".

Page 2257, in section 8, proviso, in line 2 *for* "sub-sections" *read* "sub-section".

Page 2264, in section 22A, in line 1, *for* "Im" *read* "Im".

Page 2293, against section 12, *read* "Service of orders or directions", as marginal note.

Page 2304 in Schedule I, Item 17, *for* "Asbesto" *read* "Asbestos".

Page 2352, in section 4, in line 3, *for* "as the" *read* "as to".

Page 2353, in section 8, in line 5, *for* "imprinsonment" *read* "imprisonment".

Page 2353, in section 9, in line 1, *for* " Code nf " *read* " Code of ".
Page 2362, in section 3(13) (*b*), in line 3, *for* " before or alter " *read* " before or after ".
Page 2340, in section 9, in line 7, *for* " corresive " *read* " corrosive ".
Page 2424, in section 8, in line 5 *for* " not not " *read* " not ".
Page 2425, in section 13, in the marginal note, *for* " an " *read* " and ".
Page 2449, in section 38(3)(*ii*), in line 4, *for* " fo " *read* " of ".
Page 2467, in section 25(2), in line 3, *for* " he maximum " *read* " the maximum ".
Page 2468, in section 29, in proviso (*i*), in line 3, *for* " the claim " *read* " they claim ".
Page 2539, in section 39, proviso, in line 2, *for* " take " *read* " shall take ".
Page 2572, in section 36(2), in line 1, *for* " offene " *read* " offence ".
Page 2651, in section 1(2), *for* " extend to " *read* " extends to ".
Page 2651, in section 2(*i*), *Explanation*, in line 1, *for* " window " *read* " windows ".
Page 2651, in section 2(*v*), in line 2, *for* " part a building " *read* " part of a building ".
Page 2651, in section 3, in line 2, for " Bildings " *read* " Buildings ".
Page 2665, in line 32, *for* " 9 " *read* " 7 ".
Page 2697, in section 5, in clause (*a*) of *Explanation*, *for* "text" *read* "text-book".
Page 2713, in new section 12A(1), in line 7 *for* " resister " *read* " register ".
Page 2718, in section 4(1)(*b*), in line 2, *for* " he " *read* " be ".
Page 2720, in section 6(2)(*d*), in line 3, *for* " in restricted " *read* " is restricted ".
Page 2723, in section 18, proviso, in line 5, *for* " ground " *read* " grounds ".
Page 2800, in the heading to Chapter IV, *for* " Disposal " *read* " Disposal of ".
Page 2804, in section 57(2), in line 2, *for* " scarce " *read* " source ".
Page 2805, in section 63(*e*), *for* " line " *read* " lines ".
Page 2823, in section 48(1), proviso, in line 1, *for* " offences " *read* " offence ".
Page 2824, in section 56(1), in line 3, *for* " cause " *read* " causes ".
Page 2826, in section 68(2), in line 1, *for* " found " *read* " found to ".
Page 2828, in section 79(2) in line 2, *for* " proceeding " *read* " proceedings ".
Page 2844, in section 11(1), *for* " It is " *read* " It ".
Page 2860, in line 1, *for* " buttoes " *read* " but does " and in line 2 *for* " d theare " *read* " theatre ".
Page 2870, in section 46(2), in line 1, *for* " are so paid " *read* " are not so paid ".
Page 2870, in section 49(*b*), in line 2, *for* " person " *read* " persons ".
Page 2888, in section 21, in line 4 *for* " by order anything " *read* " by order do anything ".
Page 2893, in the Schedule, for " Boines " *read* " Bovines".
Page 2899, in section 9(2), in line 3, *for* " rcords " *read* " records ", and in line 4 *for* " for informing " *read* " or of informing ".
Page 2908, in section 7, in line 2, *for* " Court " *read* " Court of ".
Page 2953, in section 67, in line 3, *for* "previsous " *read* "previous".
Page 2967, in section 22(*a*), in line 1, *for* " who " *read* " who was ".
Page 2982, in section 34(2)(*iv*), in line 1, *for* " sell " *read* " sell any ".
Page 2991, in section 74, in line 1, *for* " 5 " *read* " (3) ".
Page 3008, in section 139(*l*), in line 2, *for* " auction " *read* " auctions ".
Page 3024, in line 7, *for* " of determined " *read* " so determined ".
Page 3026, in line 6, *for* " 1949 " *read* " 1948 ".

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